Chapter X

CONSIDERATION OF THE PROVISIONS OF CHAPTER VI OF THE CHARTER
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INTRODUCTORY NOTE

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

The material in this chapter constitutes only part of the relevant material, since the procedures of the Council reviewed in chapters I-VI, in so far as they relate to the consideration of disputes and situations, are also integral to the application by the Council of Chapter VI of the Charter. Chapter X only presents the instances of deliberate consideration by the Council of the relation of its proceedings or of measures proposed to the text of Chapter VI.

The case histories on each question must be examined in the context of the respective proceedings presented in chapter VIII.

CHAPTER VI OF THE CHARTER: PACIFIC SETTLEMENT OF DISPUTES

"Article 33"

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

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

"Article 34"

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

¹Chapter VIII, part 1.
CONSIDERATION OF THE PROVISIONS OF ARTICLE 33 OF THE CHARTER

NOTE

During the period under review, two communications seeking that the Council be convened to take up a situation contained references to prior efforts at peaceful settlement. Several other communications that reached the Council with regard to disputes and situations that either were to be examined by the Council for the first time or whose consideration was to be resumed also contained references to various earlier efforts to settle the conflicts peacefully: such communications were received in connection with the situation in Timor, the communication from France and Somalia concerning the incident of 4 February 1976, the complaint by Greece against Turkey, the complaint by Chad and the situation between Iran and Iraq.

References to prior efforts at peaceful settlement were made during opening statements in the initial phase of the Council’s consideration of the situation concerning Western Sahara, the situation in Timor, the question submitted by Iceland, the communications from France and Somalia concerning the incident of 4 February 1976, the complaint by Greece against Turkey, the complaint by Chad, the letters dated 15 and 13 June 1979 from the representative of Morocco, the letter dated 25 November 1979 from the Secretary-General, the letter dated 22 December 1979 from the representative of the United States, the letter dated 1 September 1980 from the representative of Malta and the situation between Iran and Iraq.

The significance of Article 33 in the peaceful settlement of disputes and situations rests not only on the discharge of the Council's consideration of the situation concerning Western Sahara, the question submitted by Iceland, the communications from France and Somalia concerning the incident of 4 February 1976, the complaint by Greece against Turkey, the complaint by Chad and the situation between Iran and Iraq.

The four case histories entered in this part of chapter X cover proceedings in the Council that have some bearing on the exercise by the Council of its responsibility to bring about peaceful settlement of a dispute or situation.

Two resolutions adopted by the Council in connection with the same agenda item contained explicit references to Article 33 (case 1). In addition, the resolutions of the Council contained clear implicit references to Article 33 with regard to the situations on the agenda (cases 2-4).

The resolutions and decisions adopted by the Council during the period under review contained several provisions calling upon parties to seek a peaceful settlement to their disputes and to resume negotiations to settle their differences. In connection with the situation in the Middle East, the Council appeared to the parties on a number of occasions to implement the provisions regarding peaceful settlement in resolution 338 (1973). In several instances, the Council urged the parties to act in accordance with the provisions of Article 33 of the Charter.

2 See the letter dated 17 February 1975 from the representative of Cyprus (S/11625, OR, 30th yr., Suppl. for Jan.-March 1975) requesting the President to convene an urgent meeting of the Council with regard to the situation concerning Western Sahara. The letter charged that the procedure adopted by the Council for the first time or whose consideration was to be resumed also contained references to various earlier efforts to settle the conflicts peacefully: such communications were received in connection with the situation in Timor, the question submitted by Iceland, the communications from France and Somalia concerning the incident of 4 February 1976, the complaint by Greece against Turkey, the complaint by Chad and the situation between Iran and Iraq.

3 The four case histories entered in this part of chapter X cover proceedings in the Council that have some bearing on the exercise by the Council of its responsibility to bring about peaceful settlement of a dispute or situation.

4 Two resolutions adopted by the Council in connection with the same agenda item contained explicit references to Article 33 (case 1). In addition, the resolutions of the Council contained clear implicit references to Article 33 with regard to the situations on the agenda (cases 2-4).

5 The resolutions and decisions adopted by the Council during the period under review contained several provisions calling upon parties to seek a peaceful settlement to their disputes and to resume negotiations to settle their differences. In connection with the situation in the Middle East, the Council appeared to the parties on a number of occasions to implement the provisions regarding peaceful settlement in resolution 338 (1973). In several instances, the Council urged the parties to act in accordance with the provisions of Article 33 of the Charter.


7 See the note by the President of the Council containing the reply dated 31 December 1975 from the Government of the United Kingdom to the letter dated 11 December 1975 from the representative of Ireland (S/11914, OR, 30th yr., Suppl. for Oct.-Dec. 1975).

8 See the letters dated 13 and 18 February 1976 from the representative of Malta referring to an Ad Hoc Committee of OAU for the settlement of the Chad-Libyan frontier dispute (S/12168, OR, 31st yr., Suppl. for July-Sept. 1976).

9 See the letter dated 6 February 1976 from the representative of Chad referring to an Ad Hoc Committee of OAU for the settlement of the Chad-Libyan frontier dispute (S/12154, OR, 31st yr., Suppl. for Jan.-March 1976).


11 See the letter dated 22 September 1980 from the representative of Spain (S/14190, OR, 35th yr., Suppl. for July-Sept. 1980).

12 See the letter dated 22 September 1980 from the representative of France, paras. 6-24, and Somalia, paras. 26-44.

13 See the letter dated 22 September 1980 from the representative of Greece, paras. 7-29, and 1950th session, Turkey, paras. 5-26.

14 See the letter dated 22 September 1980 from the representative of Chad, paras. 8-39.

15 See the letter dated 22 September 1980 from the representative of Morocco, paras. 12-43.

16 See the letter dated 22 September 1980 from the representative of Iceland, paras. 10-22, and United Kingdom, paras. 23-36.

17 See the letter dated 22 September 1980 from the representative of Portugal to the Secretary-General (S/11890, OR, 30th yr., Suppl. for Oct.-Dec. 1975).

18 See the note by the President of the Council containing the reply dated 15 December 1975 from the Government of the United Kingdom to the letter dated 11 December 1975 from the representative of Ireland (S/11914, OR, 30th yr., Suppl. for Oct.-Dec. 1975).

19 See the letter dated 10 August 1976 from the representative of Greece pointing out various efforts at peaceful settlement, including an appeal to the International Court of Justice (S/12168, OR, 31st yr., Suppl. for July-Sept. 1976).

20 See the letter dated 6 February 1976 from the representative of Chad referring to an Ad Hoc Committee of OAU for the settlement of the Chad-Libyan frontier dispute (S/12154, OR, 31st yr., Suppl. for Jan.-March 1976).


22 See the letter dated 22 September 1980 from the representative of Spain (S/14190, OR, 35th yr., Suppl. for July-Sept. 1980).

23 See the letter dated 22 September 1980 from the representative of France, paras. 6-24, and Somalia, paras. 26-44.

24 See the letter dated 22 September 1980 from the representative of Greece, paras. 7-29, and 1950th session, Turkey, paras. 5-26.

25 See the letter dated 22 September 1980 from the representative of Chad, paras. 8-39.

26 See the letter dated 22 September 1980 from the representative of Morocco, paras. 12-43.

27 See the letter dated 22 September 1980 from the representative of Iceland, paras. 10-22, and United Kingdom, paras. 23-36.

28 See the letter dated 22 September 1980 from the representative of Portugal to the Secretary-General (S/11890, OR, 30th yr., Suppl. for Oct.-Dec. 1975).

29 See the letter dated 10 August 1976 from the representative of Greece pointing out various efforts at peaceful settlement, including an appeal to the International Court of Justice (S/12168, OR, 31st yr., Suppl. for July-Sept. 1976).

30 See the letter dated 6 February 1976 from the representative of Chad referring to an Ad Hoc Committee of OAU for the settlement of the Chad-Libyan frontier dispute (S/12154, OR, 31st yr., Suppl. for Jan.-March 1976).


32 See the letter dated 22 September 1980 from the representative of Spain (S/14190, OR, 35th yr., Suppl. for July-Sept. 1980).

33 See the letter dated 22 September 1980 from the representative of France, paras. 6-24, and Somalia, paras. 26-44.

34 See the letter dated 22 September 1980 from the representative of Greece, paras. 7-29, and 1950th session, Turkey, paras. 5-26.

35 See the letter dated 22 September 1980 from the representative of Chad, paras. 8-39.

36 See the letter dated 22 September 1980 from the representative of Morocco, paras. 12-43.

37 See the letter dated 22 September 1980 from the representative of Iceland, paras. 10-22, and United Kingdom, paras. 23-36.
with restraint so as not to jeopardize the search for a peaceful solution. In one case, the Council urged the two parties to reduce the tension in the area to facilitate the negotiating process. In another case, the Council urged the parties to accept mediation or conciliation or to resort to regional agencies or arrangements or other peaceful means to facilitate the fulfillment of their obligations under the Charter of the United Nations. In one instance, the Council urged any parties to co-operate fully with the efforts of the United Nations to achieve a peaceful solution. In a number of cases, the Council asked the Secretary-General to offer his good offices or to continue offering them to the parties concerned. In connection with the situation concerning Western Sahara, the Council asked the Secretary-General to enter into immediate consultations with the parties concerned. In several cases, the Council requested the Secretary-General to designate a special representative to pursue approaches to a peaceful settlement or to visit areas of conflict.

A number of draft resolutions that were either not adopted or not voted upon by the Council also contained implicit references to Article 33. During the consideration of the situation in the Middle East, which the Council had resumed in response to letters dated 3 December 1975 from the representatives of Lebanon and Egypt, the representative of the United States proposed an amendment to the draft resolution two additional paragraphs, under the second of which the Council would have called upon the parties to refrain from actions that might endanger negotiations aimed at achieving a just and lasting peace in the Middle East. The amendment was put to the vote and was not adopted, having failed to obtain the affirmative vote of nine members; the draft resolution failed to be adopted owing to the negative vote of a permanent member.

In the course of its consideration of the situation in the Comoros during February 1976, the Council had before it a draft resolution sponsored by Benin, Guyana, the Libyan Arab Republic, Panama and the United Republic of Tanzania, providing, inter alia, that the Council request the Government of France to enter into immediate negotiations with the Government of the Comoros.

At the 188th meeting, on 6 February 1976, the draft resolution was put to the vote and not adopted owing to the negative vote of a permanent member. During the consideration of the situation in South-East Asia and its implications for international peace and security, the representative of China sponsored a draft resolution, which provided in its paragraph 4 that the Council would urge Viet Nam and Democratic Kampuchea to enter into negotiations at an early date to settle their differences. The draft resolution was not put to the vote. In connection with the same item, Indonesia, Malaysia, the Philippines, Singapore and Thailand sponsored another draft resolution, by paragraph 5 of which the Council would have called upon all the parties to the conflict to settle their disputes by peaceful means in accordance with the Charter of the United Nations, and by paragraph 6 of which it would have welcomed the offer of the good offices of the Secretary-General in the search for a peaceful solution. The draft was not adopted owing to the negative vote of a permanent member.

When the Council considered the question of the exercise by the Palestinian people of its inalienable rights in 1979 and 1980, the representative of Senegal, who also held the position of Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, introduced a draft resolution, which, in its preambular part, had the Council reaffirm the urgent necessity of the establishment of a just and lasting peace for the purposes and principles of the Charter. The draft that was submitted to the Council at its 2162nd meeting on 24 August 1979 was not put to the vote. The identical preambular paragraph was included in a draft resolution submitted by Tunisia, when the Council resumed consideration of the item at the 2219th and 2220th meetings, on 29 and 30 April 1980. The draft resolution was put to the vote at the 2220th meeting and failed to be adopted owing to the negative vote of a permanent member.

At the 2191st meeting, on 11 and 13 January 1980, when the Council resumed its consideration of the letter dated 22 December 1979 from the representative of the United States regarding the detention of its diplomatic personnel in Teheran, the United States submitted a draft resolution under which, in its tenth preambular paragraph, the Council would have reiterated that once the hostages had been released, the Governments of Iran and the United States should take steps to resolve peacefully the remaining issues between them. The draft resolution

23For a appeal was issued in connection with the situation in Cyprus in resolutions 370 (1975), para. 3; 370 (1975), para. 3; 391 (1976), para. 4; 401 (1976), para. 6; 410 (1977), para. 6; 422 (1977), para. 3; 430 (1978), para. 2; 443 (1978), para. 2; 451 (1979), para. 3; 458 (1979), para. 3; 472 (1980), para. 3; 482 (1980), para. 3; 377 (1975), para. 2; and 379 (1975), para. 1; in connection with the situation concerning Western Sahara in resolutions 377 (1975), para. 2; and 379 (1975), para. 1; in connection with the complaint by Greece against Turkey in resolution 395 (1976), para. 1; and in connection with the letter dated 25 November 1979 from the Secretary-General in resolution 457 (1979), para. 3.

24See resolution 395 (1976), para. 2, in connection with the complaint by Greece against Turkey.

25See resolution 479 (1980), para. 2, in connection with the situation between Iran and Iraq.

26Resolution 384 (1975), para. 4, in connection with the situation in Timor.

27In connection with the situation in Cyprus, see resolutions 367 (1975), para. 6 and 7; 370 (1975), para. 6; 383 (1975), para. 6; 391 (1976), para. 6; 401 (1976), para. 6; 410 (1977), para. 6; 422 (1977), para. 6; 430 (1978), para. 2; 443 (1978), para. 2; 451 (1979), para. 3; 458 (1979), para. 3; 472 (1980), para. 3; 482 (1980), para. 3; 377 (1975), para. 2; and 379 (1975), para. 1; in connection with the situation concerning Western Sahara in resolutions 377 (1975), para. 2; and 379 (1975), para. 1; in connection with the complaint by Greece against Turkey in resolution 395 (1976), para. 1; and in connection with the letter dated 25 November 1979 from the Secretary-General in resolution 457 (1979), para. 3.

28See resolution 395 (1976), para. 2, in connection with the complaint by Greece against Turkey.

29When the Council considered the question of the exercise of the inalienable rights in 1979 and 1980, the representative of Senegal, who also held the position of Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, introduced a draft resolution, which, in its preambular part, had the Council reaffirm the urgent necessity of the establishment of a just and lasting peace for the purposes and principles of the Charter. The draft that was submitted to the Council at its 2162nd meeting on 24 August 1979 was not put to the vote. The identical preambular paragraph was included in a draft resolution submitted by Tunisia, when the Council resumed consideration of the item at the 2219th and 2220th meetings, on 29 and 30 April 1980. The draft resolution was put to the vote at the 2220th meeting and failed to be adopted owing to the negative vote of a permanent member.

30Resolution 377 (1975), para. 1; 379 (1975), para. 2; and 380 (1975), para. 1.

31In connection with the situation in Timor, see resolutions 384 (1975), para. 5; and 389 (1976), para. 3; in connection with the situation in Southern Rhodesia, see resolution 415 (1977), para. 2; and in connection with the situation in Namibia, see resolution 431 (1978), para. 1. For a more detailed information regarding the activities of the special representatives of the Secretary-General see chapter V in the present Supplement.

32See letters from Lebanon ([5/1892) and Egypt ([5/1893), OR, Unite., Suppl. for Oct.-Dec. 1975, for the request for an urgent Council meeting to consider matters of Imperial Israeli attacks against refugee camps and villages in Lebanon.

33See 1862nd mtg.: United States, paras. 44-53 for the submission of the amendment and the text of the two paragraphs to be added to the draft resolution. For the text of the draft resolution see S/11898, OR, 30th yr., Suppl. for Oct.-Dec. 1975.

34See 1862nd mtg., paras. 115-118, for the votes regarding the amendment and the draft resolution unamended.
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was put to the vote at the resumed 2191st meeting, on 13 January 1980, and was not adopted owing to the negative vote of a permanent member.44

Following consideration at the 2246th meeting, on 4 September 1980, of the letter dated 1 September 1980 from the representative of Malta,45 the Secretary-General, by a letter dated 17 October, informed the President of the Council that, following consultations with the parties and with their agreement, a special representative was to be sent to the countries concerned to discuss the question at issue with the two Governments. In a letter dated 22 October, the President informed the Secretary-General that the Council had considered his letter of 17 October in consultations and agreed with his proposal. In accordance with this agreement, arrived at through informal consultations, the Secretary-General dispatched his Special Representative, whose report on his mission to Malta and the Libyan Arab Jamahiriya was letter of 17 October in consultations and agreed with his proposal. In accordance with this agreement, arrived at

364 Chaptn X. Consldertiona of th provfaloar of Chapter VI of tbc Cbaricr

Through the debate concerning Western Sahara, there were numerous references to Article 33, together with Article 34 and Chapter VI.46

1. Acting in accordance with Article 34 of the Charter of the United Nations and without prejudice to any action which the General Assembly might take under the terms of its resolution 3292 (XXIX) of 13 December 1974 or to negotiations which the parties concerned and interested might undertake under Article 33 of the Charter, requests the Secretary-General to enter into immediate consultations with the parties concerned and interested and to report to the Security Council as soon as possible on the results of his consultations in order to enable the Council to adopt the appropriate measures to deal with the present situation concerning Western Sahara;

At its 1850th meeting, on 22 October 1975, the Council adopted by consensus resolution 377 (1975), which had been agreed upon in the course of informal consultations.47 Paragraph 1 reads as follows:

The Security Council,

1. Calls upon Morocco and all other parties concerned and interested, without prejudice to any action which the General Assembly might take under the terms of its resolution 3292 (XXIX) of 13 December 1974 or any negotiations which the parties concerned and interested might undertake under Article 33 of the Charter of the United Nations, to co-operate fully with the Secretary-General in the fulfilment of the mandate entrusted to him in Security Council resolutions 377 (1975) and 379 (1975).

Throughout the debate concerning Western Sahara, there were numerous references to Article 33, together with Article 34 and Chapter VI.48

For relevant statements and explicit references to Article 33 see 1849th mtg.: Morocco, paras. 56 and 57; 1850th mtg.: Algeria, paras. 18

52 1942nd mtg., paras. 30; the representative of Panama stated that the international Court of Justice, while admitting that a State had the right to protect its nationals, limited that right to the exercise of diplomatic or international judicial action and to the means for the peaceful settlement of disputes laid down in Article 33.

The opening statement by the representative of Chad at the 2060th mtg., paras. 7-39, on 17 February 1978, suggesting the establishment of a mediation committee and seeking the Council’s assistance in settling the conflict through peaceful means.

53 See 2109th mtg.: Kuwait, para. 11, and Bangladesh, para. 50; 2110th mtg.: Malaysia, para. 38; 2111th mtg.: Yugoslavia, para. 125, and Indonesia, para. 70.

54 The President of the situation in the Middle East (1964th mtg.), the situation in the occupied Arab territories (1919th mtg.), the question submitted by Iceland (1866th mtg.), the letter dated 3 January 1980 from 52 Member States regarding Afghanistan (2185th mtg.) and the letter dated 1 September 1980 from the representative of Malta (2246th mtg.) gave rise to such incidental references to the Article.

55 For other references to Article 33 see 1849th mtg.: Morocco, paras. 56 and 57; 1850th mtg.: Algeria, paras. 18 and 122; Morocco, para. 64; Spain, paras. 110 and 112; 1852nd mtg.: Mauritania, para. 101; and 1854th mtg.: Spain, para. 65.

56 Draft resolution S/11870 was adopted without change as resolution 377 (1975). For the President's declaration and the adoption of the resolution by consensus, see 1850th mtg., para. 7.

57 Draft resolution S/11870 was adopted without change as resolution 380 (1975). For the President's statement and the adoption of the resolution by consensus, see 1854th mtg., para. 6.

58 Implicit references to Article 33 and other related provisions occurred frequently throughout the deliberations at the 1849th, 1850th, 1852nd and 1854th mtgs.
CASE 2

Complaint by Greece against Turkey

(In connection with a four-Power draft resolution (S/12187) adopted by consensus as a resolution 395 (1976))

During the Council's deliberations about the Greek complaint that Turkey had repeatedly violated the sovereign rights of Greece on its continental shelf in the Aegean Sea, the majority of the representatives participating in the discussion held that it was up to the parties to seek a solution of their conflict through negotiations. A few expressed a slightly different viewpoint in that they emphasized the Council's primary responsibility for the maintenance of peace and security and for the peaceful settlement of disputes; therefore, the Council should take an active role in the tense situation prevailing between the two parties, which had lasted so far to resolve their differences, and actively promote the use of the instruments available under Article 33 and Chapter VI as a whole, including resort to the International Court of Justice. If, as the one party claimed, the situation constituted an acute threat to international peace and security, the Council could not remain passive. 29

The draft resolution that was submitted by the representatives of France, Italy, the United Kingdom and the United States was adopted by the Council at its 1953rd meeting, on 25 August 1976, by consensus as resolution 395 (1976). 30 Relevant provisions that have a bearing on the interpretation of Article 33 read as follows:

The Security Council,

Bearing in mind the principles of the Charter of the United Nations concerning the peaceful settlement of disputes, as well as the various provisions of Chapter VI of the Charter concerning procedures and methods for the peaceful settlement of disputes,

Noting the importance of the resumption and continuance of direct negotiations between Greece and Turkey to resolve their differences,

Conscious of the need for the parties to respect each other's international rights and obligations and to avoid any incident which might lead to the aggravation of the situation and which, consequently, might compromise their efforts towards a peaceful solution,

1. Appeals to the Governments of Greece and Turkey to exercise the utmost restraint in the present situation;
2. Urges the Governments of Greece and Turkey to do everything in their power to reduce the present tensions in the area so that the negotiating process may be facilitated;
3. Calls upon the Governments of Greece and Turkey to resume direct negotiations over their differences and appeals to them to do everything in their power to ensure that these negotiations will result in mutually acceptable solutions;

29 For the relevant statements, including explicit and implicit references to Article 33, see 19494th mtg.: Greece, paras. 7-29; 1950th mtg.: Turkey, paras. 5-26, 40-44; and 1953rd mtg.: France, paras. 34-42; Italy, paras. 13-22; Pakistan, paras. 7-82; Panama, paras. 6-44-49; Romania, paras. 50-57; United Kingdom, paras. 3-12; and United States, paras. 23-32. There were incidental references to the procedure of peaceful settlement and the role of the Council throughout the debate during the three meetings.
30 For the detailed procedural history of this case see chapter VIII, part II of the present Supplement, under the same title.

CASE 3

Letter dated 25 November 1979 from the Secretary-General and letter dated 22 December 1979 from the representative of the United States

(In connection with the statement of the President dated 27 November 1979 (S/13652); a draft resolution (S/13677) prepared in the course of consultations among members of the Council and adopted as resolution 457 (1979); a draft resolution (S/13711/Rev.1) sponsored by the United States, voted upon and adopted as resolution 461 (1979); and another draft resolution (S/13733) sponsored by the United States, voted upon at the 2191st meeting, on 13 January 1980, and not adopted, owing to the negative vote of a permanent member of the Council)

During the Council's deliberations on the prolonged detention of United States diplomatic personnel in Tehran, the capital of Iran, Council members and other representatives were initially in agreement that the critical situation could be settled only through the use of the procedures for peaceful settlement as indicated in Chapter VII of the Charter, especially in Article 33. As the crisis deepened, without any indication that the Iranian Government was willing to terminate the detention of the United States diplomatic personnel, the representative of the United States, supported by various other participants in the Council's deliberations, began calling for stronger measures, including the application of sanctions under Chapter VII of the Charter, 32 despite continuing efforts by the Secretary-General to make available his good offices and despite the United States' appeal by the United States to the International Court of Justice. Ultimately, the Council was divided between those who adhered to the instruments of peaceful settlement of the conflict between Iran and the United States and those who saw no alternative to the imposition of mandatory sanctions against Iran. 33

At the 2172nd meeting, on 27 November 1979, the President, on behalf of the Council, made a statement 34 in which he read out the text of the letter dated 25 November 1979 from the Secretary-General and renewed an appeal issued by the Council on 9 November. The Secretary-General had asked that the Council be convened urgently to seek a peaceful solution to the problem, and the Council expressed determination not to relent in its urgent efforts to seek such a solution in conformity with the principles of justice and international law.

32 For the discussion of the measures under Chapter VII in connection with the detention of United States diplomatic personnel in Tehran, see part VI, in particular the consideration of the provisions of Article 41, in the present Supplement.
33 For relevant statements see 2172nd mtg.: President, para. 16; and Secretary-General, paras. 5-10; 2175th mtg.: Bangladesh, paras. 82 and 83; Bolivia, paras. 74 and 75; Gabon, para. 57; Nigeria, para. 102; Norway, para. 29; United States, paras. 23 and 24; Zaire, paras. 145 and 146; and Zambia, para. 96; 2176th mtg.: Canada, paras. 58 and 59; Italy, para. 91; Kuwait, paras. 6-8; Malawi, para. 86 (Article 33 explicit); and Yugoslavia, paras. 115 and 116; 2177th mtg.: Austria, para. 19; and Swaziland, para. 8; 2178th mtg.: Secretary-General, para. 17; 2182nd mtg.: France, para. 60; Federal Republic of Germany, para. 70; Norway, para. 43; and United States, para. 20; 2183rd mtg.: Bolivia, paras. 36 and 39; Jamaica, para. 34; and Zambia, paras. 24 and 25; 2184th mtg.: Bangladesh, para. 13; Gabon, paras. 5 and 9; USSR, para. 35; and Zambia, para. 32; and 2191st mtg. and Add.1: German Democratic Republic, paras. 75-81; USSR, paras. 46-55; and Zambia, paras. 116 and 117. All these statements contained references to the principle and procedures of peaceful settlement of disputes under the Charter, but with the single exception indicated, did not invoke Article 33 explicitly.
At the 2178th meeting, on 4 December 1979, the Council unanimously adopted a draft resolution,65 which had been prepared in the course of consultations among its members, as resolution 457 (1979). It reads, *inter alia*, as follows:

**The Security Council,**

... Mindful of the obligation of States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

2. Further calls upon the Governments of Iran and the United States of America to take steps to resolve peacefully the remaining issues between them to their mutual satisfaction in accordance with the purposes and principles of the United Nations;

3. Requests the Secretary-General to lend his good offices for the immediate implementation of the present resolution and to take all appropriate measures to this end;

At the 2184th meeting, on 31 December 1979, the Council adopted a draft resolution, sponsored by the United States,66 by 11 votes to none, with 4 abstentions, as resolution 461 (1979). It reads, *inter alia*, as follows:

**The Security Council,**

... Mindful of the obligation of States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

4. Reiterates its request to the Secretary-General to lend his good offices to the Governments of Iran and Iraq in order to assist the Security Council in achieving the objectives called for in the present resolution, and in this connection takes note of the readiness of the Secretary-General to go personally to Iran:

5. Requests the Secretary-General to report to the Security Council on his good offices efforts before the Council meets again:

At the 2191st meeting, on 11 January 1980, the representative of the United States submitted a draft resolution,67 which contained, *inter alia*, provisions referring to Article 33; they read as follows:

**The Security Council,**

... Mindful of the obligation of States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered and, to that end, to respect the decision of the Security Council,

4. Reiterating that once the hostages have been safely released, the Governments of Iran and Iraq and the United States of America should take steps to resolve peacefully the remaining issues between them to their mutual satisfaction in accordance with the purposes and principles of the United Nations,

At the 2191st meeting, which was resumed on 13 January 1980, the draft resolution, which provided for mandatory sanctions under Articles 39 and 41,68 was put to the vote and received 10 votes to 2, with 4 abstentions; one member did not participate in the voting; the draft was not adopted owing to the negative vote of a permanent member of the Council.69

**CASE 4**

**The situation between Iran and Iraq**

(In connection with the statement of the President dated 23 September 1980 (S/14190); a draft resolution (S/14201) sponsored by Mexico and adopted unanimously as resolution 479 (1980); and the statement of the President dated 5 November 1980 (S/14244))

During the Council's deliberations regarding the war between Iran and Iraq, the members of the Council and one of the parties stated their strong belief that the military conflict between the two neighbours should be settled as quickly as possible through negotiations based on an immediate cease-fire and that all efforts at settlement should be pursued with the good offices of the Secretary-General encouraged and monitored by the Council in accordance with its mandate under the Charter. The other party considered the even-handed approach to the war as unjust and inadequate since peace in justice could be restored if the responsibility for the outbreak of the war were to be documented by the United Nations and if the aggressor were to be punished.70

On 23 September 1980, following consultations that the Secretary-General had requested in view of the escalation of the conflict between Iran and Iraq, the President issued a statement71 on behalf of the members of the Council. It reads, *inter alia*, as follows:

... The members of the Council welcome and fully support the appeal of the Secretary-General, addressed to both parties on 22 September 1980, as well as the offer that he has made of his good offices to resolve the present conflict.

... The members of the Council have asked me to appeal, on their behalf, to the Governments of Iran and Iraq, as a first step towards a solution of the conflict, to desist from all armed activity and all acts that may worsen the present dangerous situation and to settle their dispute by peaceful means.

... At the 2248th meeting, on 28 September 1980, the Council unanimously adopted a draft resolution72 sponsored by Mexico, which had been prepared in the course of lengthy consultations, as resolution 479 (1980). It reads, *inter alia*, as follows:

**The Security Council,**

... Mindful that all Member States have undertaken, under the Charter of the United Nations, the obligation to settle their international disputes by peaceful means and in such a manner that international peace and security and justice are not endangered,

1. Calls upon Iran and Iraq to refrain immediately from any further use of force and to settle their dispute by peaceful means and in conformity with principles of justice and international law;

65 S/13677, adopted without change as resolution 457 (1979).
68 For the analysis of the Council's activities with regard to Articles 39 and 41, see chapter XI of the present Supplement.
69 For the detailed procedural history of this case, see chapter VIII, part II, under the same title.
70 For the relevant statements, see 2247th mtg.: Mexico, paras. 20-26; Norway, paras. 29-33; and Secretary-General, paras. 6-12; 2248th mtg.: Bangladesh, paras. 88-91; France, paras. 55-60; German Democratic Republic, paras. 104 and 105, Iraq, paras. 127 and 128, Japan, paras. 138-146; Philippines, paras. 111-117, USSR, paras. 158-160, United Arab Emirates, paras. 132-135; 2250th mtg.: Cuba, paras. 56-58, 2251st mtg.: Iran, paras. 3-38, and United States, paras. 69-93; 2252nd mtg.: German Democratic Republic, paras. 64 and 65 (invoking Article 33 explicitly); and United States, paras. 31-36, 2253rd mtg.: Philippines, paras. 13-24, and United Kingdom, paras. 5-11, and 2254th mtg.: China, paras. 44-47, France, paras. 7-20, Jamaica, paras. 25-32, Portugal, paras. 77-82, USSR, paras. 89-94; and Tunisia, paras. 61-72.
71 S/14190. For the full text, see DR, 19th yr., Resolutions and Decisions of the Security Council, 1980.
72 S/14201, adopted without change as resolution 479 (1980).
Part II. Consideration of the provisions of Article 34 of the Charter

2. Urges them to accept any appropriate offer of mediation or conciliation or to resort to regional agencies or arrangements or other peaceful means of their own choice that would facilitate the fulfillment of their obligations under the Charter of the United Nations;

4. Supports the efforts of the Secretary-General and the offer of his good offices for the resolution of this situation;

On 5 November 1980, the President of the Council issued the following statement,71 which reads, *inter alia*, as follows:

During recent days, members of the Security Council have continued intensive consultations about the situation between Iran and Iraq. Their aim continues to be to bring an early end to the hostilities and to bring about a peaceful settlement of the dispute in accordance with the purposes and principles of the Charter of the United Nations.

Members of the Council are deeply concerned that hostilities continue, with resulting loss of life and material damage. They continue to urge that all concerned be guided by Member States' obligations under the Charter to settle their international disputes by peaceful means and in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State.

The Secretary-General has participated fully in the Council's consultations. Members of the Council have reiterated their full support for the use of his good offices to bring about peaceful negotiations between Iran and Iraq with a view to arriving at a just solution to their differences.72

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 34 OF THE CHARTER

NOTE

During the period under review, the Council invoked Article 34 explicitly in three resolutions adopted consecutively in connection with the same issue.73 This case, as well as a few others, gave rise to some constitutional discussion regarding the interpretation and application of this Article.74

The five case histories entered in this part relate in varying degrees to the functions of investigation by the Council as envisaged in Article 34; in two of these instances the stated purpose of the proposed investigation was to determine whether the particular situation was indeed likely to endanger the maintenance of international peace and security.75 In a third instance, the Council agreed to dispatch a mission to assess the needs of a Member State in pursuing its development projects in the face of hostile acts committed by the illegal régime in Southern Rhodesia.76 In a fourth instance, the Council established a commission to examine the situation in the occupied Arab territories.77 In a fifth instance, the Council set up an ad hoc committee so that it could assist the Council in the implementation of a programme of assistance, which the committee proposed following a fact-finding mission to Zambia in order to establish the extent of damages incurred from Southern Rhodesian aggressive acts.78

In connection with its consideration of the situation in Timor, the Council apparently invoked Article 34 in requesting the Secretary-General to send urgently a special representative79 to East Timor for the purpose of making an on-the-spot assessment of the existing situation and of establishing contact with all the parties in the Territory and all States concerned in order to ensure the implementation of the Council's resolution.80 Several representatives emphasized the importance of the fact-finding mission, but pointed out that it had been requested merely to ensure the implementation of the Council's resolution.81

On several occasions during the period under review, suggestions were made that the Council consider the dispatch of fact-finding missions for the purposes of inquiry and information-gathering in connection with issues that the Council had taken up or was asked to consider. Concerning an incident in February 1976 involving Somalia and France, the representative of Somalia supported a proposal to send a fact-finding mission to the area.82 In a letter dated 14 April 1976,83 the representative of Oman, as Chairman of the Arab Group for that month, requested the Secretary-General to send a personal representative or another suitable representative to Palestine to look into the question of secret land acquisitions by Israel in the occupied Arab territories and to report to the Secretary-General the facts and findings of this investigation. In a letter dated 6 July 1976,84 the representative of the Ivory Coast transmitted to the President of the Council the text of a statement by the President of the Ivory Coast, in which the United Nations was called upon to dispatch a mission as soon as possible to verify the accuracy or inaccuracy of the accusations that had been made by Guinea against the Ivory Coast regarding “aggression by mercenaries” allegedly organized from within the borders of Senegal and the Ivory Coast. At the 1945th meeting, on 28 July 1976, during the consideration of the complaint by Zambia against South Africa, the representative of Liberia asked whether South Africa would accept and co-operate with a fact-finding mission of the Council and make available to that mission all relevant information regarding the Zambian charges; she requested a reply from South Africa so that

71 See case 5 below, in connection with the situation concerning Western Sahara.
72 Not all case histories involve constitutional discussion, of which there was little during the period under review. Case 9, for instance, did not contain any constitutional material. See case 5 below, in connection with the situation concerning Western Sahara, and case 7 below, in connection with the complaint by Benin.
73 See case 6 below, in connection with the complaint by Botswana.
74 See case 8 below, in connection with the situation in the occupied Arab territories.
75 See case 9 below, in connection with the complaint by Zambia.
76 For further details regarding the role of such special representatives, see chapter V in the present Supplement.
77 Resolution 384 (1975), paras. 4 and 5. The resolution was adopted at the 1869th meeting (para. 12) on 2 December 1975.
78 For the relevant statements, see 1866th mtg., Mr. Horta, para. 134, 1866th mtg.: France, paras. 93 and 94, Italy, paras. 85-87, Japan, paras. 43-45, and United Republic of Tanzania, paras. 76-78.
79 See 1860th mtg.: Somalia, para. 95, in connection with the consideration of communications from France and Somalia concerning the incident of 6 February 1976.
the suggestions could be taken into consideration in preparing a draft resolution.87

At the 2151st meeting, on 20 June 1979, when the Council considered the letters dated 13 and 15 June 1979 from the representative of Morocco, the Moroccan representative indicated his Government’s willingness to act of aggression that he had reported in his letters.88

During the Council’s consideration of the letter dated 25 November 1979, from the Secretary-General with regard to the detention of United States diplomatic personnel in Teheran, there was what might be seen as a representative indicated his Government’s willingness to ascertain the veracity of the facts about the acts of aggression that he had reported in his letters.89

During the Council’s consideration of the letter dated 31 October 1979, the Secretary-General noted that he had discussed with the Iranian authorities the establishment of an international inquiry committee that would investigate the allegations of human rights violations and other illegal acts by the previous regime in Iran.90 The function of that commission would have had a remote relationship with the functions stated in Article 34.

During the period under review, the suggestion to send a fact-finding mission to Cyprus to investigate the bases of the communal conflict was renewed in a number of Council meetings without leading to a formal proposal for the Council’s decision.91

Article 34 was explicitly invoked in connection with several issues presented in the cases below and once in connection with the letters dated 13 and 15 June 1979 from the representative of Morocco.92

CASES

Situation concerning Western Sahara

(In connection with a draft resolution (S/11858) arrived at as a result of consultations and adopted by consensus on 22 October 1975 as resolution 377 (1975))

During the Council’s consideration of the situation in the Western Sahara, one of the parties, supported by a large number of members of the Council and other representatives, proposed that in view of the great danger in the region the Council, which was legitimately concerned with the question in accordance with Article 34 of the Charter, should decide to dispatch a mission to establish in detail the prevailing situation and to advise appropriate measures by the Council to maintain peace and security. Another party to the conflict argued however, citing Articles 34 and 35 of the Charter, that there was no justification for the Council’s involvement as there was no new dispute or situation in Western Sahara.93

At the 1850th meeting, on 22 October 1975, the President announced that as a result of most intensive consultations among the members of the Council agreement had been reached on the text of a draft resolution.94 At the same meeting, in the absence of objections, he declared the draft resolution adopted by consensus as resolution 377 (1975).95 Its paragraph 1 reads as follows:

The Security Council,

1. Acting in accordance with Article 34 of the Charter of the United Nations and without prejudice to any action which the General Assembly might take under the terms of its resolution 3292 (XXIX) of 13 December 1974 or to negotiations that the parties concerned and interested might undertake under Article 31 of the Charter, requests the Secretary-General to enter into immediate consultations with the parties concerned and interested and to report to the Security Council as soon as possible on the results of his consultations in order to enable the Council to adopt the appropriate measures to deal with the present situation concerning Western Sahara;

Under its resolutions 379 (1975) of 2 November 1975 and 380 (1975) of 6 November 1975, the Council reiterated that request and appealed to the parties to co-operate fully with the Secretary-General in his effort to fulfill the mandate of the Council.96

CASE 6

Complaint by Botswana against the illegal régime in Southern Rhodesia

(In connection with a draft resolution (S/12276) submitted by Benin, India, the Libyan Arab Republic, Mauritius, Pakistan, Panama, Romania and Venezuela, voted upon and adopted as resolution 403 (1977))

During the Security Council’s consideration of the complaint of the Government of Botswana that the illegal régime in Southern Rhodesia had repeatedly committed serious acts of aggression against Botswana and had gravely violated its territorial sovereignty, the representative of Botswana requested not only international assistance for his country but also expressed the wish that the Council dispatch as soon as possible a fact-finding mission to assess its needs in carrying out its development projects in the face of hostile and provocative acts committed by the Southern Rhodesian régime. When the Council took up the report of that mission, several members referred to the mission in terms of the function assigned to the Council under Article 34. However, no constitutional discussion arose about this situation.97

At the 1985th meeting, on 14 January 1977, the representative of Mauritius, speaking on behalf of the eight sponsors (Benin, India, the Libyan Arab Republic, Mauritius, Pakistan, Panama, Romania and Venezuela),98

87 For the relevant statements, see 1849th mtg.: Morocco, paras. 42-45, 58-61; Mauritania, paras. 78-80; and Spain, paras. 89, 91; 1850th mtg.: Algeria, paras. 17 and 110; and Spain, paras. 110-112. The representatives of Algeria, Guyana, Morocco and Spain invoked Article 34 explicitly.
88 See 1850th mtg., para. 1.
89 See S/11858, adopted without change as resolution 377 (1975).
90 1850th mtg., para. 19.
91 For the detailed procedural history of this case see chapter VIII, part II, under the same title.
92 For the relevant statements, see 1849th mtg.: Botswana, para. 45; 1850th mtg.: Secretary-General, para. 206, 206th mtg.: President (Benin), para. 3; Secretary-General, paras. 17 and 110; and Zambia, para. 57, and 206th mtg.: India, para.
introduced the draft resolution. At the same meeting, the President put the draft to the vote; it was adopted by 13 votes to none, with 2 abstentions, as resolution 403 (1977). Its paragraph 6 reads as follows:

The Security Council,

6. 

The Secretary-General, in collaboration with appropriate organizations of the United Nations system, to organize with immediate effect financial and other forms of assistance to Botswana and to report to the Security Council not later than 31 March 1977;

CASE 7
Complaint by Benin

(In connection with a draft resolution (S/12282) submitted by Benin, the Libyan Arab Republic and Mauritius, revised and adopted, as amended, by consensus as resolution 404 (1977))

When the Council considered the complaint by Benin that on 16 January 1977 imperialists and their mercenaries had attacked the airport and city of Cotonou, the representative of Benin requested that the Council investigate the events fully in order to establish the veracity of the charges brought against the anonymous aggressors and to accept that the events threatened the peace in that region of Africa. Members of the Council were more or less unanimous in their support for the suggested fact-finding mission which was based on the mandate spelled out in Article 34.

At the 1986th meeting, on 7 February 1977, the representative of Mauritius introduced a draft resolution sponsored by Benin, the Libyan Arab Republic and Mauritius; the text was subsequently revised in that the second operative paragraph was somewhat worded and a new fourth operative paragraph was inserted. At the end of the 1987th meeting, on 8 February 1977, the President announced that members of the Council were agreed that the draft resolution might be adopted by consensus and declared it adopted as resolution 404 (1977). Its second to fourth paragraphs read as follows:

The Security Council,

2. Decides to send a Special Mission composed of members of the Security Council to the People’s Republic of Benin in order to investigate the events of 16 January 1977 in Cotonou and report not later than the end of February 1977;
3. Decides that the members of the Special Mission will be appointed after consultations between the President and the members of the Security Council;
4. Requests the Secretary-General to provide the Special Mission with the necessary assistance:

The Special Mission admitted its report, which was considered during the 200th-2005th meetings of the Council in April 1977.

CASE 8
Situation in the occupied Arab territories

(In connection with a draft resolution (S/13171) submitted by Bangladesh, Kuwait, Nigeria and Zambia, revised and adopted by vote as resolution 446 (1979), and a draft resolution (S/13827) prepared in the course of consultations and adopted unanimously as resolution 465 (1980))

During the Council’s extended deliberations regarding the Arab territories occupied by Israel since 1967, it was proposed that the Council send a Mission composed of Council members to the area to investigate the conditions prevailing there in order to expose the practices of the occupation authorities and thereby to initiate some progress towards a peaceful settlement as envisaged in resolution 242 (1967). Several Council members recognized in principle the usefulness of such investigations as authorized in Article 34, but held that in the current phase of peace efforts in the Middle East such an engagement might serve merely to complicate matters.

At the 2128th meeting, on 16 March 1979, the representative of Kuwait introduced the draft resolution, which was sponsored by Bangladesh, Kuwait, Nigeria and Zambia. The text was twice revised in that part of paragraph 8 was deleted and the number of Council members to form the fact-finding mission was reduced from five to three. At the 2134th meeting, on 22 March 1979, the draft resolution as revised was put to the vote and adopted by 12 votes to none, with 3 abstentions, as resolution 446 (1979). Its fourth to sixth paragraphs read as follows:

The Security Council,

4. Establishes a mission consisting of three members of the Security Council, to be appointed by the President of the Council, after consultation with the members of the Council, to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem;
5. Requests the Commission to submit its report to the Security Council by 1 July 1979;
6. Requests the Secretary-General to provide the Commission with the necessary facilities to enable it to carry out its mission;

105/S/12294 and Add.1, OR, 32nd yr., Special Supplement No. 3 (S/12924/Rev.1). For the complete procedural history of this case, see chapter VIII, part II, under the same title. See also chapter V for a case history of the Mission as a subsidiary organ of the Council.
106/S/13171, slightly modified and adopted as resolution 446 (1979).

For the statement introducing the draft resolution, see 2128th meeting: Kuwait, paras. 24-33.

At the 2203rd meeting, on 1 March 1980, the President drew attention to the text of a draft resolution that had been prepared in the course of consultations. The draft resolution was then put to the vote and adopted unanimously as resolution 465 (1980). It reads, inter alia, as follows:

The Security Council,

1. Commends the work done by the Security Council Commission established under resolution 446 (1979) in preparing the report contained in document S/13679;

8. Requests the Commission to continue to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem, to investigate the reported serious depletion of natural resources, particularly the water resources, with a view to ensuring the protection of those important natural resources of the territories under occupation, and to keep under close scrutiny the implementation of the present resolution;

9. Requests the Commission to report to the Security Council before 1 September 1980 and decides to convene at the earliest possible date thereafter in order to consider the report and the full implementation of the present resolution.


CASE 9
Complaint by Zambia

(In connection with a draft resolution (S/13645) sponsored by Bangladesh, Gabon, Jamaica, Kuwait, Nigeria and Zambia and adopted by consensus as resolution 455 (1979))

When the Council considered the complaint by Zambia in November 1979 regarding renewed and intensified acts of aggression by the illegal régime in Southern Rhodesia against vital rail and road bridges throughout Zambia, the discussion was brief and focused on the steps to be taken for Zambia to be able to obtain compensation for the damages suffered and to continue its policy of implementing the sanctions that the Security Council had imposed against Southern Rhodesia. The Ad Hoc Committee set up by the Council under resolution 455 (1979) decided to pay a visit to Zambia and to inspect the various sites of the Southern Rhodesian aggression in order to carry out more effectively the task set out in the resolution.

At the 2171st meeting, on 23 November 1979, the President drew attention to a draft resolution sponsored by Bangladesh, Gabon, Jamaica, Kuwait, Nigeria and Zambia. During the same meeting, the draft resolution was adopted by consensus as resolution 455 (1979). It reads, inter alia, as follows:

The Security Council,

1. Strongly condemns the illegal régime in the British colony of Southern Rhodesia for its continued, intensified and unprovoked acts of aggression against the Republic of Zambia, which constitute a flagrant violation of the sovereignty and territorial integrity of Zambia;

5. Calls for the payment of full and adequate compensation to the Republic of Zambia by the responsible authorities for the damage to life and property resulting from the acts of aggression;

6. Further calls upon all Member States and international organizations urgently to extend material and other forms of assistance to the Republic of Zambia in order to facilitate the immediate reconstruction of its economic infrastructure;

7. Decides to establish an ad hoc committee composed of four members of the Security Council, to be appointed by the President after consultation with members, in order to assist the Council in the implementation of the present resolution, in particular paragraphs 5 and 6 thereof, and report to the Council by 15 December 1979;

For the relevant statements, see the deliberations at the 2171st meeting, on 23 November 1979, especially the opening statement by the representative of Zambia. For the decision of the Ad Hoc Committee to visit Zambia for the purposes of fact-finding and of meeting with officials of the Government, see the letter dated 6 December 1979 (S/13681, OR, 34th yr., Suppl. for Oct.-Dec. 1979) from the Chairman of the Ad Hoc Committee transmitting an interim report of the Committee adopted on that date.

For the detailed procedural history, see chapter VIII, under the same title, and the case history in chapter V.

Part III

CONSIDERATION OF THE PROVISIONS OF ARTICLE 35 OF THE CHARTER

NOTE

During the period under review, 37 questions involving the maintenance of international peace and security were brought to the attention of the Council. In three cases, requests were submitted by subsidiary organs of the General Assembly; and in two cases, the Secretary-General submitted items relating to peace and security. In all other cases, the requests under Article 35 were brought to the attention of the Council by Members of the United Nations. The relevant data regarding the submission of these questions are summarized in the appended tabulation.

The Council has continued to consider, at the request of the parties or other Members of United Nations or, in one instance, a committee of the General Assembly, questions that previously had been included in the agenda: the situation in Cyprus; the situation in the Middle East; the situation in Southern Rhodesia; complaint by Zambia; and the situation in Namibia.
SUBMISSION BY MEMBERS OF THE UNITED NATIONS

Members of the United Nations have generally submitted questions to the Council by means of a communication to the President of the Council. Article 35 was cited four times as the basis of submission.

No question was submitted by Members to the Council as a dispute. In 22 instances questions were explicitly described as situations. In 26 cases the letter of submission contained terms similar to those of Article 39. In several instances, the request for the Council to consider a question did not specify circumstances or give other details. In one case, the Council was asked to hold consultations on the matter submitted for its consideration. The Council was also asked to resume consideration of a question, to remain seized of a matter, and to consider recent developments and to examine reports of the Secretary-General. In three instances, the Council was requested to consider the defiance by Member States of resolutions of the Council.

With regard to the situation concerning Western Sahara, the Council was requested to convene to dissolve the Moroccan Government from carrying out the announced invasion of Western Sahara, to consider the refusal of the Government of Morocco to halt the invasion and to discuss the violation of the Western Saharan frontier.

In connection with the situation in the Middle East, Council meetings were requested to consider Israeli attacks on refugee camps and villages in Lebanon, continuous acts of terror and violence perpetrated from Lebanese territory against Israel, to discuss the escalation of Israeli attacks, to help consolidate a de facto cease-fire and to deliberate on persistent designs by Israel to alter the status of Jerusalem.

Regarding the situation in the Comoros, the African Group requested the Council to meet in order to consider the political situation of that country. In another case, an urgent meeting was requested in order to consider a serious incident on the frontier between the French Territory of the Afare and the Issas and the Somali Republic, and another meeting was requested on the same item since the other party had not reciprocated the serious, meaningful efforts to settle the matter peacefully.

Meetings concerning the occupied Arab territories were requested to consider the practices of the Israeli occupation authorities with regard to settlement and colonization and the accelerating erosion of the status of Jerusalem, to consider the expulsion of two mayors and a judge and to consider assassination attempts and arbitrary detention.

Following killings and violence in Soweto and other areas of South Africa, two requests were submitted that the Council consider the repression of the African population by the apartheid regime. In another case, one party requested a Council meeting for the consideration of repeated violations of its sovereign rights on its continental shelf by the other party. Lesotho requested that the Council meet following the closure of the border by South Africa between the south-eastern part of Lesotho and Transkei. Tension between Botswana and the minority régime in Southern Rhodesia endangering the security of the former led Botswana to seek a meeting of the Council. The Government of Guinea, committed to the struggle to eliminate all mercenary practices in the region, joined in calling for a meeting of the Council to hear the complaint by Benin.

Several times when the question of South Africa was on the agenda, the meetings had been requested so that the Council could deal with the repressive measures of the Pretoria authorities against the South African people, that it consider the establishment of a body to supervise the implementation of the mandatory arms embargo under resolution 418 (1977), and in connection with the declared intent of the South African Government to execute Solomon Mahlangu.

Mozambique requested a Council meeting with regard to the increased tension between the Southern Rhodesian régime and Mozambique, further escalated by an attack by the minority régime. In connection with the situation in Southern Rhodesia, Council meetings were requested to extend an invitation to the Secretary-General to appoint a representative to enter into discussions with the British Resident Commissioner and all the parties in Southern Rhodesia, and to consider the Southern Rhodesia Constitution Order 1979, providing for the assumption of full legislative and executive authority over Southern Rhodesia by a British governor.

When the Council was seized with the detention of United States diplomatic personnel in Teheran, the Council was asked to meet to consider what might be done to secure the release of the detained diplomats, it was also requested to convene in view of the "war psychosis" created by the United States and the American threat to the peace and security of Iran, the region and the world. In another case, the Iranian Government...
welcomed the request by the Secretary-General for a Council meeting but asked to postpone the formal deliberations until after a major Islamic holiday.\(^\text{160}\) Subsequently, the United States requested another meeting of the Council since the continued detention of the hostages jeopardized international order.\(^\text{161}\)

A meeting of the Council was requested in view of an illegal action taken by the other party, which also constituted a threat to regional and international peace.\(^\text{162}\) When the war broke out between Iran and Iraq, two other Members requested that the Council meet urgently to consider the ongoing conflict.\(^\text{163}\)

**SUBMISSION BY STATES NOT MEMBERS OF THE UNITED NATIONS**

During the period under review, there was no request by a non-Member State for a meeting of the Security Council.

**SUBMISSION BY THE GENERAL ASSEMBLY OR ITS SUBSIDIARY ORGANS**

During the period under review, three committees of the General Assembly requested that the Council be convened to consider matters that both the Council and the subsidiary organs of the Assembly were dealing with. In one case, the Chairman of the Special Committee against Apartheid endorsed the recommendation of a United Nations Seminar on Nuclear Collaboration with South Africa that the Council should urgently consider the situation arising from the efforts of the apartheid régime to acquire nuclear weapon capability.\(^\text{164}\) On another occasion, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples requested, in connection with the situation in Namibia, the Council to convene urgently to consider imposing comprehensive and mandatory sanctions against South Africa under Chapter VII of the Charter.\(^\text{165}\)

On three occasions, the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People submitted formal requests for the Council to be convened so that recommendations proposed by the Committee and endorsed by the General Assembly could be considered for adoption by the Council itself.\(^\text{166}\)

**SUBMISSION BY THE SECRETARY-GENERAL**

On three occasions during the period under review, the Secretary-General formally requested that the Council meet urgently to consider issues that posed a threat to international peace and security. In one case, following the detention of United States diplomatic personnel in Teheran, he asked that the Council be convened to consider this serious threat.\(^\text{167}\) In connection with the situation between Iran and Iraq, the Secretary-General first requested that the Council meet in consultation,\(^\text{168}\) and then asked for an urgent meeting of the Council\(^\text{169}\) to discuss the escalating conflict between the two neighbouring countries.

**PROCEDURAL CONSEQUENCES OF SUBMISSION UNDER ARTICLE 35**

Communications submitting questions for consideration by the Council were dealt with in accordance with rules 6-9 of the provisional rules of procedure;\(^\text{170}\) material relating to the application of these rules is contained in chapter II, parts II and III, of the present Supplement.

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

The Council did not consider whether or not to accept the designation of any of the new questions submitted for its consideration in the initial submission.\(^\text{171}\) Nor was any question raised as to the appropriate designation for a question included in the agenda at an earlier date.

\(^{160}\) See tabulation, entry 33 (iii).

\(^{161}\) See tabulation, entry 33 (iv).

\(^{162}\) See tabulation, entry 35.

\(^{163}\) See tabulation, entry 36.

\(^{164}\) See tabulation, entry 37.

\(^{165}\) See tabulation, entry 39.
**Section A. Questions submitted by Members as disputes**

**Section B. Questions submitted by Members as situations**

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<td>Cyprus</td>
<td>Turkey</td>
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<td>Requesting an urgent meeting on the question of Cyprus following violation by Turkey of General Assembly and Council resolutions</td>
<td>S/11625, OR, 30th yr., Suppl. for Jan.-March 1975</td>
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<td>(ii) Letter dated 26 August 1977</td>
<td>Cyprus</td>
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<td>2. Letter dated 28 September 1975 from the representative of Mexico to the Secretary-General</td>
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<td>Spain</td>
<td>5, 6, 41</td>
<td>Requesting an urgent extraordinary meeting so that, in accordance with Articles 5 and 6 of the Charter, the Council might recommend to the General Assembly that the Spanish régime be suspended from the exercise of the rights and privileges of its membership. Also requesting, in accordance with Article 41, that the Council call upon the Members of the United Nations to interrupt completely their economic relations as well as their means of communication and to sever diplomatic relations with Spain</td>
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### TABULATION OF QUESTIONS SUBMITTED TO THE SECURITY COUNCIL, 1975-1980 (continued)

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<td>(iii) Letter dated 6 November 1975</td>
<td>Spain</td>
<td>Morocco</td>
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<td>Stating that it had become most urgently necessary that the Council meet in public session inasmuch as the frontier of the Western Sahara had now been violated</td>
<td>S/11867, ibid.</td>
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### 4. Situation in the Middle East

1. Letter dated 3 December 1975
   - Lebanon
   - Israel
   - Referring to Israel's attack on refugee camps and villages in various parts of Lebanon, and in view of the gravity of the situation, requesting an urgent meeting
   - S/11892, ibid.

2. Letter dated 23 March 1977
   - Egypt
   - Israel
   - Confirm the request for an urgent meeting to discuss the Israeli aggression
   - S/11893, ibid.

3. Letter dated 17 March 1978
   - Lebanon
   - Israel
   - Confirm the request for a meeting to discuss the situation in the Middle East
   - S/12606, ibid., 33rd yr., Suppl. for Jan.-March 1978

4. Letter dated 17 March 1978*
   - Lebanon
   - Israel
   - Pursuant to a letter dated 15 March 1978 ["Israeli aggression against Lebanon"], requesting an urgent meeting
   - S/13206, ibid., 32nd yr., Suppl. for Jan.-March 1977

5. Letter dated 17 March 1978
   - Israel
   - Lebanon
   - Requesting the convening of a meeting to consider the continuous acts of terror and violence being perpetrated from Lebanese territory against Israel
   - S/12607, ibid.

   - Lebanon
   - Requesting a meeting to examine the interim report of the Secretary-General of 19 April 1979 (S/13258) and the special report of the Secretary-General (S/13254) of the same date
   - S/13270, ibid., 34th yr., Suppl. for April-June 1979

7. Letter dated 30 May 1979
   - Lebanon
   - Israel
   - Requesting an urgent meeting to discuss Israeli escalation of its attacks
   - S/13356, ibid.

8. Letter dated 24 August 1979
   - Lebanon
   - Israel
   - Requesting a meeting to examine the deteriorating situation in southern Lebanon, which was endangering peace and security, and requesting an urgent meeting
   - S/13516, ibid., Suppl. for July-Sept. 1979

   - Lebanon
   - Israel
   - Requesting a meeting at the earliest possible date to help consolidate the de facto cease-fire (refers to S/13516)
   - S/13520, ibid.

10. Letter dated 10 April 1980*
    - Lebanon
    - Israel
    - Request a meeting to put an end to Israeli aggression and enable UNIFIL to acquire full control of the totality of its area of operation
    - S/13885, ibid., 35th yr., Suppl. for April-June 1980
(ii) Letter dated 28 May 1980
Pakistan
Israel
Requesting an immediate meeting to consider the situation arising from the latest decision by Israel to annex and declare the Holy City of Jerusalem as the capital of Israel
S/13966, ibid.

(iii) Letter dated 1 August 1980
Pakistan
Israel
Referring to the persistent designs by Israel to alter the status of the Holy City of Jerusalem and, in view of the serious implications of that action, requesting an immediate meeting
S/14084, ibid. Suppl. for July-Sept. 1980

5. Situation in Timor
Letter dated 7 December 1975
Portugal
Indonesia

(iii) Letter dated 3 February 1976
Portugal
Indonesia
Referring to the British auxiliary vessels operating under instructions of British naval units that had repeatedly rammed an Icelandic Coastguard vessel and, in view of the gravity of the situation, requesting an urgent meeting
S/11907, ibid.

6. Question submitted by Iceland
Letter dated 12 December 1975
Iceland
United Kingdom

(ii) Letter dated 5 February 1976
Iceland
United Kingdom

Requesting an urgent meeting so that the military aggression by Indonesia might be terminated

7. Situation in the Comoros
(i) Telegram dated 28 January 1976
Comoros
France

Referring to the French Government’s decision to organize a referendum in Mayotte and, in view of that flagrant aggression, requesting the urgent convening of the Council
S/11953, ibid., 31st yr., Suppl. for Jan.-March 1976

(ii) Letter dated 3 February 1976
Guinea-Bissau
Comoros

Requesting, on behalf of the African group, a meeting to consider the request of the Government of the Comoros regarding the political situation of that country
S/11959, ibid.

8. Communications from France and Somalia concerning the incident of 4 February 1976
(i) Letter dated 4 February 1976
France
Somalia

Requesting a meeting as a matter of urgency to consider a serious incident that had occurred on the frontier between the French Territory of Afars and the Issas and the Somali Republic
S/11961, ibid.

(ii) Letter dated 5 February 1976
Somalia
France

Requesting a meeting for the purpose of considering an act of open and unprovoked aggression against Somalia by France
S/11969, ibid.

(iii) Letter dated 18 February 1976
Somalia
France

Requesting an urgent meeting since no serious effort had been reciprocated by the other party during a reasonably long period of time
S/11987, ibid.
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<td>Requesting a meeting as a matter of urgency, stating that its decision to impose sanctions involved serious economic consequences for Mozambique and that, during the night of 23 to 24 February, the racist régime had launched an outright war of aggression against Mozambique</td>
<td>S/12009, ibid.</td>
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<td>11. Request by the Libyan Arab Republic and Pakistan for consideration of the serious situation arising from recent developments in the occupied Arab territories</td>
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<td>Israel</td>
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<td>S/12017, ibid.</td>
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<td>12. Situation in the occupied Arab territories (i) Letter dated 3 May 1976</td>
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<td>Egypt</td>
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<td>S/12218, ibid., Suppl. for Oct.-Dec. 1976</td>
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13. Situation in South Africa

(i) Letter dated 18 June 1976
Jordan
Benin
Libyan Arab Republic
United Republic of Tanzania

(ii) Telegram dated 18 June 1976
Madagascar

from the representative of the Sudan to the President of the Security Council

Sudan
Libyan Arab Republic

S/13115, ibid., 34th yr., Suppl. for Jan.-March 1979

Requesting a meeting in consequence of the Israeli occupation authorities practice of settlement and colonization of the occupied Arab territories and the accelerating erosion of the status of Jerusalem

S/13801, ibid., 35th yr., Suppl. for Jan.-March 1980

Requesting a meeting to deliberate on Israel’s defiance of resolutions 446 (1979) and 452 (1979)

S/13802, ibid.

Requesting an urgent meeting to consider the grave situation created by the recent measures taken by Israel in the occupied Palestinian city of Hebron on the West Bank of the Jordan

S/13926, ibid., Suppl. for April-June 1980

Requesting an urgent meeting to consider the expulsion measure taken by Israel against the mayors of Al-Khalil and Halhul and the Islamic judge of Al-Khalil

S/13941, ibid.

Requesting a meeting of the Council to consider Israel’s defiance of resolution 466 (1980) of 8 May 1980

S/13977, ibid.

Requesting, on behalf of the Group of Arab States, an immediate meeting to consider the assassination attempts on the elected mayors of Nablus, Ramallah and Al Birah and the arbitrary detention of a great number of Palestinian students in the occupied Palestinian territory

S/12100, ibid., 31st yr., Suppl. for April-June 1976

Requesting an emergency meeting to consider the measures of repression perpetrated by the apartheid régime in South Africa against the African people in Soweto and other areas in South Africa

S/12101, ibid.

Referring to the savage and criminal acts perpetrated by the white minority of South Africa and, in view of the merciless repression of the rebelling African population, urging the Council to convene

S/12122, ibid., Suppl. for July-Sept. 1976

Referring to the act of armed banditry designed to effect the overthrow of the Government of the Sudan and evidence that the act was conceived, prepared and executed by the Government of the Libyan Arab Republic and, as the intervention was a threat to the security of the Sudan, requesting an urgent meeting
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<td>Assistant Executive Secretary, OAU</td>
<td>Israel, Uganda</td>
<td>Requesting, on behalf of the heads of State and Government of OAU, an immediate meeting to consider the wanton act of aggression</td>
<td>S/12126, ibid.</td>
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<td>Benin</td>
<td>Zambia, South Africa</td>
<td>Requesting, on behalf of the Group of African States, an urgent meeting to consider the aggression by South Africa against Zambia</td>
<td>S/12233, ibid., 33rd y.r., Suppl. for July-Sept. 1978</td>
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<td></td>
<td>Zambia</td>
<td>South Africa</td>
<td>Referring to the intensified acts of aggression against Zambia by the racist regime of South Africa and requesting a meeting with a view to taking measures to compel the Pretoria regime to desist from committing aggression</td>
<td>S/12262, ibid.</td>
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<td>S/12167, ibid., 31st y.r., Suppl. for July-Sept. 1976</td>
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<td>Lesotho</td>
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<td>Requesting a meeting following the closure of the border, by South Africa, between the south-eastern part of Lesotho and Transkei</td>
<td>S/12257, ibid., Suppl. for Oct.-Dec. 1976</td>
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<td>19. Complaint by Botswana</td>
<td>Botswana</td>
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<td>Requesting an urgent meeting as a result of the tension between Botswana and the illegal régime, endangering the security of Botswana</td>
<td>S/12262, ibid.</td>
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19. Communique by Benin
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20. Question of South Africa (see Note 1 below)
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   (iv) Letter dated 25 January 1978
   (v) Letter dated 5 April 1979
   (vi) Letter dated 5 April 1979
   (vii) Letter dated 14 September 1979
   (viii) Letter dated 29 May 1980

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<td>Requesting a meeting to discuss aggression by the imperialists and their mercenaries against Benin</td>
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<td>Guinea</td>
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<td>The Government of Guinea, committed to the struggle to eliminate all necessary practices in Africa, calling for an immediate meeting</td>
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<td>Requesting a meeting to resume consideration of the question of the armed aggression against Benin</td>
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<td>Nigeria</td>
<td>9 March 1977</td>
<td>In conformity with Assembly resolution 31/6 and Council resolution 392 (1976), requesting a meeting to consider the question of South Africa</td>
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<td>Tunisia</td>
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<td>United Republic of Cameroon</td>
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<td>Requesting, as Chairman of the Coordinating Bureau of Non-Aligned Countries, an urgent meeting in connection with the declared intent of the South African Government to execute Solomon Mahlangu</td>
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<td>Liberia</td>
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<td>Morocco</td>
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For references to Assembly, General Assembly, Special Session, 32nd yr., April-June 1977, see supra.
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<td>(ix) Letter dated 23 September 1980</td>
<td>Sierra Leone</td>
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<td>Requesting, on behalf of the African Group, an urgent meeting to consider the situation in South Africa</td>
<td>S/14189, ibid., Suppl. for July-Sept. 1980</td>
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<td>(x) Letter dated 6 October 1980</td>
<td>Sierra Leone</td>
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<td>Further to the letter from Sierra Leone on behalf of the African Group requesting a meeting to consider the situation in South Africa, and as Chairman of the Council of Ministers of OAU, confirming the wish of the African Group that the Council remain seized of the matter and that, after consultations, an appropriate date be suggested for its consideration</td>
<td>S/14212, ibid., Suppl. for Oct. Dec. 1980</td>
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<td>22. Complaint by Mozambique Letter dated 22 June 1977</td>
<td>Mozambique</td>
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<td>Requesting a meeting with regard to the increased tension between Smith's régime and Mozambique, further escalated by a recent attack against Mozambique</td>
<td>S/12350 and Add.1, ibid., 32nd yr., Suppl. for April-June 1977</td>
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<td>23. Situation in Southern Rhodesia (i) Letter dated 23 September 1977</td>
<td>United Kingdom</td>
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<td>Requesting a meeting to invite the Secretary-General to appoint a representative to enter into discussions with the British Commissioner and all the parties in Southern Rhodesia</td>
<td>S/12402, ibid., Suppl. for July-Sept. 1977</td>
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<td>(ii) Letter dated 1 March 1978</td>
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<td>Requesting a meeting to discuss the deterioration in the situation in Southern Rhodesia due to the cynical manoeuvring of the Ian Smith régime</td>
<td>S/12578, ibid., 33rd yr., Suppl. for Jan.-March 1978</td>
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<td>S/13698, ibid., Suppl. for Oct.-Dec. 1979</td>
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<td>Chad</td>
<td>Requesting a meeting to consider the extremely serious situation prevailing in northern Chad as a result of Libyan aggression and of the Chad-Libyan frontier problem</td>
<td>Libyan Arab Jamahiriya</td>
<td>S/12533, ibid., 33rd yr., Suppl. for Jan.-March 1978</td>
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<td>S/13111, ibid.</td>
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<td>Stating that, in the light of the current circumstances in Indo-China, a meeting should be called as soon as possible on the situation in Indo-China</td>
<td>S/13112, ibid.</td>
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   (ii) Letter dated 13 November 1979
   (iii) Letter dated 27 November 1979
   (iv) Letter dated 22 December 1979

34. Letter dated 3 January 1980 from 52 Member States regarding Afghanistan

35. Letter dated 1 September 1980 from the representative of Malta

36. Situation between Iran and Iraq (see 41 below)
   Letter dated 26 September 1980

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Morocco

Algeria

United States

Iran

United States

Iran

United States

Iran

52 Member States

Afghanistan

Malta

Libyan Arab Jamahiriya

Mexico

Iran

Norway

Iraq

Requesting a meeting to consider the acts of aggression committed by the Algerian Government against Morocco

Requesting that the Council urgently consider what might be done to secure the release of the diplomatic personnel being held by a group of Iranians

Requesting a meeting in view of the fact that the United States had plunged the world into a war psychosis and of the fact that it deemed its own peace and security and those of the region and the world to be threatened

Welcoming the request of the Secretary-General for a meeting of the Council (S/13646), recalling the request by the Foreign Minister for a meeting in view of the threats to the peace and security of Iran and asking that formal deliberations of the Council be postponed on account of Islamic holidays

Requesting that the Council meet at an early date to consider Iran's continued detention of the hostages, which jeopardized the international order vital to all nations

Requesting an urgent meeting to consider the situation in Afghanistan

Requesting an urgent meeting in view of an illegal action taken by the Libyan Government, which also constituted a threat to regional and international peace

Requesting an urgent meeting to consider the ongoing conflict between Iran and Iraq
**Section C. Questions submitted by Members as threats to the peace, breaches of the peace or acts of aggression**

**Section D. Questions submitted by States not Members as disputes**

**Section E. Questions submitted by States not Members as threats to the peace, breaches of the peace or acts of aggression**

**Section F. Questions submitted by the General Assembly or its subsidiary organs**

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<td>Chairman, Committee on the Exercise of the Inalienable Rights of the Palestinian People</td>
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<td>(ii) Letter dated 27 June 1979</td>
<td>Idem</td>
<td></td>
<td></td>
<td>Referring to the reply dated 24 May 1979 from the President to his letter (S/13164) and conveying the Committee's conviction that the Council should resume consideration of the Committee's recommendations</td>
<td>S/13418, ibid., Suppl. for April-June 1979</td>
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<td>(iii) Letter dated 24 March 1980</td>
<td>Chairman, Committee on the Exercise of the Inalienable Rights of the Palestinian People</td>
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<td>Referring to General Assembly resolution 34/65 A and to developments in the occupied Arab territories and requesting that the Council convene urgently to consider the recommendations of the Committee</td>
<td>S/13855, ibid., 35th yr., Suppl. for Jan.-March 1980</td>
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9. Situation in Namibia (see 28 above)
Letter dated 28 August 1980
Chairman, Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples
Chapter VII Submitting a consensus adopted by the Special Committee on 21 August 1980 recommending that the Council convene urgently to consider imposing comprehensive and mandatory sanctions against South Africa under Chapter VII of the Charter
S/14133 (for the text of the consensus, see OR. G.4. 35th Session, Suppl. No. 23 (A/35/23/Rev.1), chap. VIII, para. 13)

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**Section G. Questions submitted by the Secretary-General**

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<td>40. Letter dated 25 November 1979 (see 33 above)</td>
<td>Secretary-General</td>
<td>Iran United States</td>
<td>Requesting an urgent meeting to consider the seizure of the United States Embassy at Teheran and detention of its diplomatic personnel, which posed a serious threat to international peace and security</td>
<td>S/13646, OR. 34th yr., Suppl. for Oct.-Dec. 1979</td>
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<td>41. Situation between Iran and Iraq (see 36 above)</td>
<td>Secretary-General</td>
<td>Iran Iraq</td>
<td>Stating that in view of the dangers that would inevitably arise from a further escalation of the conflict, it was urgently necessary for the members of the Council to meet in consultation</td>
<td>S/14196, ibid., 35th yr., Suppl. for July-Sept. 1980</td>
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<td>(i) Letter dated 23 September 1980</td>
<td>Secretary-General</td>
<td>Iran Iraq</td>
<td>Stating that the current situation was an undoubted threat to international peace and security and suggesting that the Council should consider the matter with the utmost urgency</td>
<td>S/14197, ibid.</td>
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<tr>
<td>(ii) Letter dated 23 September 1980</td>
<td>Secretary-General</td>
<td>Iran Iraq</td>
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*The letter of submission employs terms similar to those of Article 39 of the Charter.*
Part IV

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

NOTE

Part IV deals with cases in which discussion has arisen regarding the responsibility of the Security Council for the settlement of the particular dispute or situation under consideration in the light of the provisions of Chapter VI of the Charter.172 It also includes those instances where Articles 36-38 or Chapter VI have been invoked or where the proceedings of the Council have a bearing on the interpretation of these provisions.

During the period under review, debates preceding decisions of the Council in this field dealt mostly with the actual issues before the Council and the relative merits of measures proposed without discussion regarding their relation to the provisions of the Charter. Evidence for the interpretation of the provisions of Articles 36-38 continued to be scant. Chapter VI was explicitly invoked in a resolution adopted by the Council and several decisions of the Council contained implicit references to Article 36. This Article, as well as Chapter VI as a whole, were explicitly referred to in Council debates and in related communications.173

Resolution 395 (1976), concerning the complaint by Greece against Turkey,174 contained in the preamble an explicit reference to Chapter VI invoking both the principles as well as the procedures and methods for the peaceful settlement of disputes, and, in the operative part, invited the Governments of Greece and Turkey to continue to take into account the contribution that appropriate judicial means, in particular the International Court of Justice, were qualified to make to the settlement of any remaining legal differences that they might identify in connection with their dispute.175 The debate leading to the adoption of this resolution brought out the intimate link between the text of the Council's decision and the provisions of Chapter VI, especially Articles 33 and 36. However, the debates did not give rise to a constitutional discussion regarding the framework of Chapter VI of the Charter for the pacific settlement of disputes and other forms of conflict.

During the consideration of the detention of United States diplomatic personnel in Tehran, Chapter VI and Article 36 were repeatedly invoked as the Council grappled with the problem of applying the procedures of peaceful settlement to this situation. Recommendations by Member States to apply fully the provisions for peaceful settlement before considering mandatory sanctions under Chapter VII.176 The Council further referred to judicial settlement in accordance with Article 36, especially its paragraph 3. In the draft resolution 461 (1979) it took into account the Order of the International Court of Justice of 15 December 1979 (S/13697) calling upon the Government of the Islamic Republic of Iran to ensure the immediate release, without any exception, of all persons of United States nationality who were being held as hostages in Iran and also calling upon the Government of the United States and the Government of the Islamic Republic of Iran to ensure that no action would be taken by them that would aggravate the tension between the two countries.177

When the Council considered the request by the Libyan Arab Republic and Pakistan in March 1976 with regard to the serious situation that had arisen in the occupied Arab territories, the spokesman for the PLO repeatedly called for Council action under Article 36.178 A draft resolution submitted by Guyana, Pakistan and the United Republic of Tanzania provided for the Council to call upon Israel to refrain from all measures against the Arab inhabitants of the occupied territories and to ask Israel to respect the Holy Places, to desist from the expropriation of Arab property and to refrain from any steps to change the legal status of Jerusalem.179 This draft, which was put to the vote and failed to be adopted owing to the negative vote of a permanent member,180 might be seen as a set of corollary measures for a peaceful settlement in accordance with Article 36 (1).181

Article 36 and the referral of legal issues to the International Court of Justice were of significance in the Council's direct and indirect efforts to assist the Governments of Malta and the Libyan Arab Jamahiriya in settling their differences regarding the delimitation of the continental shelf area between the two countries. In a letter dated 1 September 1980182 and in subsequent communications, the representative of Malta deplored the delay in submitting the whole question to the Court, as agreed in 1976, and sought the help of the Council and the Secretary-General in easing the tension and facilitating that step toward judicial settlement. The Libyan Government also reiterated its willingness to see the matter

172 For explicit references to Chapter VI see 2175th mtg.: Czechoslovakia, para. 165; 2183rd mtg.: Czechoslovakia, para. 13; Zamb. para. 24. Chapter VI was implicitly referred to throughout the proceedings of the Council. For specific references to Article 36 and judicial settlement through the International Court of Justice see 2175th mtg.: Nigeria, para. 106; United States, para. 23.

173 Resolution 461 (1975), sixth preambular paragraph. The reference to that Order was reiterated in the United States-sponsored draft resolution (S/13735), which failed to be adopted owing to the negative vote of a permanent member. For the text of the Order, see S/13697 (mimeograph), and publication No. 447 of the International Court of Justice. The Judgment of the Court was circulated as a Council document as requested by the letter dated 9 June 1980 from the representative of the United States (S/13969). For the Judgment, see publication No. 451 of the Court. See chapter VIII, part II of the present Supplement for the detailed case history.

174 For explicit references to Chapter VI see 2175th mtg.: Czechoslovakia, para. 115; 2183rd mtg.: Czechoslovakia, para. 13; Zamb. para. 24. Chapter VI was implicitly referred to throughout the proceedings of the Council. For specific references to Article 36 and judicial settlement through the International Court of Justice see 2175th mtg.: Nigeria, para. 106; United States, para. 23.

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179 For explicit references to Chapter VI see 2175th mtg.: Czechoslovakia, para. 165; 2183rd mtg.: Czechoslovakia, para. 13; Zamb. para. 24. Chapter VI was implicitly referred to throughout the proceedings of the Council. For specific references to Article 36 and judicial settlement through the International Court of Justice see 2175th mtg.: Nigeria, para. 106; United States, para. 23.

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submitted to the Court. The issue was, however, not satisfactorily settled during the period under review, despite a meeting of the Council and the dispatch, with Council approval, of a Special Representative to discuss the question with both Governments. Throughout this period, the use of judicial procedures to obtain a peaceful resolution of the conflict between the two countries was clearly envisaged by the Council, the parties and the Secretary-General, as suggested under Article 36 of the Charter.

It should be noted that during the period covered by the present Supplement, resolutions adopted by the Council and draft resolutions that were not adopted contained provisions that could be interpreted as corollary measures of pacific settlement. As a guide to relevant decisions of the Council, the appropriate headings in the analytical table of measures of chapter VIII of the present Supplement should be consulted, as well as the materials in the other parts of chapter X. For discussions bearing on procedures of pacific settlement under Chapter VI of the Charter as a whole and Article 36, the relevant parts of chapters VIII and X of the present Supplement should be consulted, whereas reference should be made to various parts of chapter XI for situations submitted to the Council as threats to the peace, breaches of the peace or acts of aggression.

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14 See, in particular, the letter dated 16 September 1980 (S/14176, 35th yr., Suppl. for July-Sept. 1980).
15 The Council considered the issue at its 2265th meeting, on 4 September 1980.
16 For the exchange of letters between the Secretary-General and the President of the Council regarding the decision to dispatch a special representative, see S/14228 and S/14229, OR, 35th yr., Suppl. for Oct.-Dec. 1980, and for the report of the Secretary-General on the mission of the Special Representative to Malta and the Libyan Arab Jamahiriya, see S/14256, OR, 35th yr., Suppl. for Oct.-Dec. 1980.
17 Special reference should be made to part I of this chapter, where much of this material has already been dealt with, as it has a bearing on the interpretation and application of the basic instruments of peaceful settlement as contained in Article 33 of the Charter.