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**Part IV**  
**Relations with other United Nations organs**

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## Contents

	<i>Page</i>
Introductory note . . . . .	235
I. Relations with the General Assembly . . . . .	236
Note . . . . .	236
A. Election by the General Assembly of the non-permanent members of the Security Council. . . . .	236
B. Recommendations made by the General Assembly to the Security Council under Articles 10 and 11 of the Charter. . . . .	237
C. Practice in relation to Article 12 of the Charter . . . . .	240
D. Practice in relation to provisions of the Charter involving recommendations made by the Security Council to the General Assembly . . . . .	241
E. Election of members of the International Court of Justice . . . . .	244
F. Annual and special reports of the Security Council to the General Assembly . . . . .	245
G. Relations with subsidiary organs established by the General Assembly . . . . .	246
H. Other Security Council practice bearing on relations with the General Assembly . . . . .	252
II. Relations with the Economic and Social Council . . . . .	254
Note . . . . .	254
Discussions concerning relations with the Economic and Social Council . . . . .	254
III. Relations with the International Court of Justice . . . . .	256
Note . . . . .	256
A. Discussions concerning relations with the International Court of Justice . . . . .	256
B. Communications concerning relations with the International Court of Justice . . . . .	258

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## Introductory note

Part IV of the present Supplement covers the practice of the Security Council with regard to Articles 4–6, 10–12, 15 (1), 20, 23, 24 (3), 65, 93, 94, 96 and 97 of the Charter of the United Nations concerning the relations of the Council with other principal organs of the United Nations, namely, the General Assembly, the Economic and Social Council and the International Court of Justice. Material relating to the relations of the Security Council with the Secretariat is featured in part II, section V, which deals with the administrative functions and powers of the Secretary-General in connection with meetings of the Council pursuant to rules 21 to 26 of its provisional rules of procedure. The Trusteeship Council was inactive during the period under review.<sup>1</sup>

During the period under review, the General Assembly continued to address recommendations to the Council regarding the general principles of cooperation in the maintenance of international peace and security. The Council and the Assembly, in parallel and within the limitations imposed by the Charter, considered the situation of human rights in the Democratic People’s Republic of Korea and in the Syrian Arab Republic. In addition, both organs collaborated on the election of judges to fill vacancies on the roster of the International Residual Mechanism for Criminal Tribunals and elected new members of the International Court of Justice consistent with the respective applicable provisions of the statutes of the Mechanism and the Court, the provisional rules of procedure of the Council and the rules of procedure of the Assembly. The Council also reappointed the Prosecutor of the Mechanism. In 2018, Council members continued to discuss the relations between the Council and subsidiary organs of the Assembly, in particular the Human Rights Council, the Special Committee on Peacekeeping Operations and the Peacebuilding Commission.

In October 2018, the President of the Security Council participated in a dialogue with the Presidents of the General Assembly and the Economic and Social Council on the theme “Renewing commitment to multilateralism”. In November, the Council was briefed by the Permanent Representative of Qatar, on behalf of the President of the General Assembly, by the President of the Economic and Social Council and by the President of the International Court of Justice during an open debate on strengthening multilateralism and the role of the United Nations, organized by China, which held the presidency of the Council for that month. During 2018, the Council did not address any requests to the Economic and Social Council for information or assistance, nor did it make recommendations or decide on measures with regard to the judgments rendered by the Court or request that it give an advisory opinion on any legal question.

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<sup>1</sup> The Trusteeship Council completed its mandate under the Charter in 1994 and suspended its operations on 1 November 1994. For more information see *Repertoire, Supplement 1993–1995*, chap. VI, part III.

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## I. Relations with the General Assembly

### Note

Section I focuses on various aspects of the relationship between the Council and the General Assembly in accordance with Articles 4–6, 10–12, 15 (1), 20, 23, 24 (3), 93, 94, 96 and 97 of the Charter, rules 40,<sup>2</sup> 60 and 61 of the provisional rules of procedure of the Council and Articles 4, 8, 10–12 and 14 of the Statute of the International Court of Justice.

This section is divided into eight subsections. Subsection A deals with the election by the General Assembly of the non-permanent members of the Council, in accordance with Article 23 of the Charter. Subsections B and C concern the functions and powers of the Assembly vis-à-vis Articles 10 to 12, with a particular focus on the practice and authority of the Assembly to make recommendations to the Council. Subsection D covers instances in which a decision by the Council must be taken prior to that of the Assembly under Articles 4 to 6, 93 and 97, such as the admission of new Members or the appointment of judges to the International Residual Mechanism for Criminal Tribunals. Subsection E examines the practices for the election of members of the International Court of Justice, requiring concurrent action by the Council and the Assembly. Subsection F covers the annual and special reports of the Council to the Assembly, in accordance with Articles 15 and 24 (3) of the Charter. Subsection G concerns Council relations with the subsidiary organs established by the Assembly that played a part in the work of the Council during 2018. Subsection H features other Council practice bearing on relations with the Assembly.

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

#### Article 23

1. *The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent*

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<sup>2</sup> Rule 40 of the provisional rules of procedure is also covered in part II, sect. VIII, “Decision-making and voting”.

*members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.*

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

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

During the period under review, at its seventy-second regular session, the General Assembly elected five non-permanent members to the Council in accordance with Article 23 of the Charter, to replace those whose terms of office were to expire on 31 December 2018 (see table 1).

On 6 February 2018, during discussions on the working methods of the Council held under the item entitled “Implementation of the note by the President of the Security Council (S/2017/507)”, some speakers praised the move of the elections of non-permanent members of the Council by the Assembly from October to June.<sup>3</sup> Moreover, in General Assembly resolution 72/313, adopted on 17 September 2018 under the item entitled “Revitalization of the Work of the General Assembly”, the Assembly welcomed efforts to afford elected members of the Council appropriate opportunities to prepare for their tenure, and also welcomed the note by the President of the Security Council, in which the elected Council members were invited to observe some of its meetings and activities as from 1 October immediately preceding their term of membership.<sup>4</sup>

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<sup>3</sup> S/PV.8175, p. 2 (Executive Director of Security Council Report), p. 11 (Kazakhstan), p. 12 (Poland) and p. 21 (Plurinational State of Bolivia).

<sup>4</sup> General Assembly resolution 72/313, para. 26.

Table 1  
**Election by the General Assembly of non-permanent members of the Security Council**

<i>Term</i>	<i>General Assembly decision</i>	<i>Plenary meeting and date of election</i>	<i>Members elected for the term</i>
2019–2020	72/419	93rd 8 June 2018	Belgium, Dominican Republic, Germany, Indonesia, South Africa

## **B. Recommendations made by the General Assembly to the Security Council under Articles 10 and 11 of the Charter**

### *Article 10*

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

### *Article 11*

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

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

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

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

During the period under review, the General Assembly addressed recommendations to the Council regarding the general principles of cooperation in the maintenance of international peace and security.

Several of those recommendations concerned the powers and functions of the Council under Articles 10 and 11 (1) of the Charter. The relevant provisions of the resolutions of the Assembly are set out in table 2. In Assembly resolution [72/313](#), adopted under the item entitled “Revitalization of the work of the General Assembly”, Member States acknowledged the role and authority of the Assembly, as established in Article 10 of the Charter, to make recommendations to the Members of the United Nations or to the Council or to both, on questions or matters within the scope of the Charter, except as provided in Article 12 thereof, and reaffirmed the role and authority of the Assembly, including on questions relating to international peace and security, in accordance with Articles 10 to 14 and 35 of the Charter, bearing in mind that the Council had the primary responsibility for the maintenance of international peace and security.<sup>5</sup> In the same resolution, the Assembly invited the Presidents of the Assembly to maintain the practice of holding monthly meetings with the Secretary-General and the President of the Security Council in order to ensure cooperation, coordination and exchange of information on cross-cutting issues related to the work of the Organization.<sup>6</sup> In another resolution, under the item entitled “United Nations Regional Centre for Peace and Disarmament in Africa”, the Assembly recalled the provisions of Article 11 (1) of the Charter, noting that the consideration of the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and arms limitation, was a function of the Assembly.<sup>7</sup>

In connection with Article 11 (2) of the Charter, the General Assembly made recommendations to the Council with regard to specific questions relating to the maintenance of international peace and security or requesting action by the Council concerning those questions. In its recommendations, which were in reference to items already on the Council’s agenda, the Assembly called on the Council to ensure accountability, including through consideration of referral of the situation in the Democratic People’s Republic of Korea to the International Criminal Court,

<sup>5</sup> *Ibid.*, seventh preambular paragraph and para. 6.

<sup>6</sup> *Ibid.*, para. 91.

<sup>7</sup> General Assembly resolution [73/75](#), first preambular paragraph.

and to consider the further development of sanctions in order to effectively target those who appeared to be most responsible for human rights violations. The Assembly also encouraged the Council to ensure accountability of those responsible for violations of international humanitarian law or violations and abuses of human rights law in the Syrian Arab Republic. The relevant provisions of the resolutions of the Assembly are set out in table 3.

The General Assembly did not draw the attention of the Council to any situations under Article 11 (3) of the Charter.<sup>8</sup>

Concerning the deliberations in the Council, during the period under review, no explicit references were made to Article 10 or Articles 11 (1), (3) or (4) of the Charter. Article 11 (2) of the Charter was referred to twice, during an open debate on the working methods of the Council organized by Kuwait, which held the presidency of the Council for the month of February.<sup>9</sup> During that debate, held at the 8175th meeting, on 6 February 2018, the representatives of the Islamic Republic of Iran and Algeria both stressed that the Council should fully take into account the recommendations of the General Assembly on matters relating to international peace and security, consistent with Article 11 (2), of the Charter.<sup>10</sup> At the same

meeting, several speakers commented on the interaction between the Council and the Assembly. The representative of Estonia, speaking on behalf of the Accountability, Coherence and Transparency Group, emphasized that the interaction between the Council and the Assembly needed to be improved, “to live up to the expectations of the membership and the new standards of openness and transparency”.<sup>11</sup> The representative of Colombia noted that, during the current reform process of the peace and security and development pillars, the relationship and interaction between the Council and the Assembly was “an ongoing process that should be subject to ongoing review and improvements”.<sup>12</sup> The representative of Colombia also recognized efforts made by the various presidents of the Council, including through meetings with the President of the General Assembly, to make the discussions on situations more democratic. The representative of Maldives opined that meetings between the presidents of the Security Council, the General Assembly and the Economic and Social Council would “go a long way in enhancing coordination” among the work of the three organs.<sup>13</sup>

In addition, Article 11 was broadly invoked once during deliberations of the Council on the maintenance of international peace and security, by the representative of Côte d’Ivoire, who indicated that its provisions granted the General Assembly the powers “to study and discuss all issues and principles relating to the maintenance of international peace and security and to bring them to the attention” of Member States and the Council.<sup>14</sup>

<sup>8</sup> For information on other referrals to the Security Council, see part VI, sect. I.

<sup>9</sup> The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>10</sup> S/PV.8175, p. 31 (Islamic Republic of Iran) and p. 62 (Algeria).

<sup>11</sup> Ibid., p. 36.

<sup>12</sup> Ibid., p. 41.

<sup>13</sup> Ibid., p. 56.

<sup>14</sup> S/PV.8262, p. 25.

Table 2

**Recommendations to the Security Council in resolutions of the General Assembly regarding the general principles of cooperation in the maintenance of international peace and security**

*General Assembly resolution and date      Provisions*

**Implementation of the recommendations contained in the report of the Secretary-General on the causes of conflict and the promotion of durable peace and sustainable development in Africa**

72/311

10 September 2018

Recognizes the growing and emerging challenges and risks facing United Nations peacekeeping operations and political missions, and in this regard takes note of the report of the High-level Independent Panel on Peace Operations and the report of the Secretary-General entitled “The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations”, as well as the recommendations supported by Member States in the report of the Special Committee on Peacekeeping Operations, in particular on prevention, mediation and stronger global regional partnerships, including between the United Nations and the African Union, and encourages the Security Council, as appropriate, to consult with relevant regional organizations, particularly the African Union, especially if transitioning from a regional to a United Nations peacekeeping operation (para. 12)

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*General Assembly resolution and date*      *Provisions*

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### **Report of the International Criminal Court**

[73/7](#)  
29 October 2018      Encourages further dialogue between the United Nations and the International Criminal Court, and welcomes in this regard the increased interaction of the Security Council with the Court under various formats, including the holding of open debates on peace and justice and working methods, with a special focus on the role of the Court (para. 20)

### **Comprehensive review of special political missions**

[73/101](#)  
7 December 2018      Encouraging enhanced exchanges of information, in an appropriate manner, among the General Assembly, the Security Council and the Secretariat, making use of the advisory role of the Peacebuilding Commission, when relevant, on overall policy matters pertaining to special political missions (eighth preambular paragraph)

### **Terrorism and human rights**

[73/174](#)  
17 December 2018      Encourages the Security Council, the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate to strengthen, within their mandates, the links, cooperation and dialogue with relevant human rights bodies, giving due regard to the promotion and protection of human rights and the rule of law in their ongoing work relating to counter-terrorism (para. 34)

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Table 3

### **Recommendations to the Security Council in resolutions of the General Assembly with regard to specific questions relating to the maintenance of international peace and security**

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*General Assembly resolution and date*      *Provisions*

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### **Situation of human rights in the Democratic People's Republic of Korea**

[73/180](#)  
17 December 2018      Encourages the Security Council to continue its consideration of the relevant conclusions and recommendations of the commission of inquiry and take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the further development of sanctions in order to target effectively those who appear to be most responsible for human rights violations that the commission has said may constitute crimes against humanity (para. 12)

Also encourages the Security Council to continue to discuss the situation in the Democratic People's Republic of Korea, including the country's human rights situation, in the light of the serious concerns expressed in the present resolution, and looks forward to its continued and more active engagement on this matter (para. 13)

### **Situation of human rights in the Syrian Arab Republic**

[73/182](#)  
17 December 2018      Emphasizes the need to ensure that all those responsible for violations of international humanitarian law or violations and abuses of human rights law are held to account through appropriate, fair and independent domestic or international criminal justice mechanisms, in accordance with the principle of complementarity, stresses the need to pursue practical steps towards this goal, and for that reason encourages the Security Council to take appropriate action to ensure accountability, noting the important role that the International Criminal Court can play in this regard (para. 33)

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

### Article 12

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

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

Subsection C covers the practice of the Council in relation to Article 12 of the Charter. Article 12 (1) limits the authority of the General Assembly with regard to any dispute or situation in respect of which the Council is exercising its functions under the Charter.

During the period under review, no reference was made to Article 12 (1) in decisions of the Council, nor did the Council request the General Assembly to make a recommendation with regard to any dispute or situation. Nonetheless, in relation to the situation in the Syrian Arab Republic, speakers made reference to the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, established by the Assembly in 2016 to closely cooperate with the Independent International Commission of Inquiry on the Syrian Arab Republic.<sup>15</sup> In that connection, as well as in connection with the Palestinian question, Member States at various meetings expressed their intention to continue to avail themselves of other forums, including

<sup>15</sup> For more information on the establishment of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic, see *Repertoire, Supplement 2016–2017*, part IV, sect. I.C.

the Assembly, to pursue efforts to enforce international law in instances when the Council failed to act.<sup>16</sup>

Under Article 12 (2), the Secretary-General is required to notify the General Assembly of the matters relating to the maintenance of international peace and security being dealt with by the Council or with which the Council has ceased to deal.

During the period under review, in accordance with that provision, the Secretary-General continued to notify the General Assembly of the matters relating to the maintenance of international peace and security which were being dealt with by the Council or with which the Council had ceased to deal.<sup>17</sup> The notification was based on the summary statements of matters of which the Council was seized and the stage reached in their consideration, which were circulated each week to the members of the Council in accordance with rule 11 of its provisional rules of procedure.<sup>18</sup> The consent of the Council, required under Article 12 (2), was obtained through the circulation of the draft notification by the Secretary-General to the members of the Council. Following receipt of the notification, the Assembly formally takes note of it in the form of a decision.<sup>19</sup>

<sup>16</sup> See, for example, under the item entitled “The situation in the Middle East”, [S/PV.8174](#), p. 14 (Netherlands), and [S/PV.8221](#), p. 4 (United States) and p. 6 (Netherlands); under the item entitled “Women and peace and security”, [S/PV.8234](#), p. 29 (Liechtenstein); under the item entitled “The situation in the Middle East, including the Palestinian question”, [S/PV.8244](#), p. 23 (Kuwait), and [S/PV.8256](#), p. 4 (Kuwait); under the item entitled “Maintenance of international peace and security”, [S/PV.8262](#), pp. 15–16 (Netherlands), p. 43 (Liechtenstein), p. 46 (Ireland), pp. 47–48 (Mexico), p. 52 (Belgium), p. 53 (Italy), p. 61 (Ukraine) and pp. 80–81 (Turkey); and under the item entitled “Protection of civilians in armed conflict”, [S/PV.8264](#), p. 78 (South Africa) and p. 85 (New Zealand).

<sup>17</sup> See [A/73/300](#).

<sup>18</sup> For more information, see part II, sect. II.B, “Matters of which the Council is seized (rules 10 and 11)”.

<sup>19</sup> See General Assembly decision 72/562 of 12 September 2018, in which the General Assembly took note of the notification by the Secretary-General under Article 12 (2), dated 1 September 2017 ([A/72/300](#)); see also *Repertoire, Supplement 2016–2017*, part IV, I.C. As at 31 December 2018, the General Assembly had not taken note of the notification by the Secretary-General under Article 12 (2) of 1 September 2018 ([A/73/300](#)).



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

### *Article 4*

1. *Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.*

2. *The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.*

### *Article 5*

*A member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.*

### *Article 6*

*A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.*

### *Article 93, paragraph 2*

*A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.*

### *Article 97*

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

### *Rule 60*

*The Security Council shall decide whether in its judgement the applicant is a peace-loving State and is able and willing to carry out the obligations contained*

*in the Charter and, accordingly, whether to recommend the applicant State for membership.*

*If the Security Council recommends the applicant State for membership, it shall forward to the General Assembly the recommendation with a complete record of the discussion.*

*If the Security Council does not recommend the applicant State for membership or postpones the consideration of the application, it shall submit a special report to the General Assembly with a complete record of the discussion.*

*In order to ensure the consideration of its recommendation at the next session of the General Assembly following the receipt of the application, the Security Council shall make its recommendation not less than twenty-five days in advance of a regular session of the General Assembly, nor less than four days in advance of a special session...*

The Charter provides for joint decision-making by the Council and the General Assembly in relation to a number of matters, but requires a decision by the Council to be taken first. This is the case with respect to the admission, suspension or expulsion of Members (Articles 4, 5 and 6), the appointment of the Secretary-General (Article 97) and the conditions under which a State that is not a Member of the United Nations may become a party to the Statute of the International Court of Justice (Article 93 (2)).<sup>20</sup> In addition, the statute of the International Residual Mechanism for Criminal Tribunals provides that the judges of the Mechanism shall be elected by the Assembly from a list submitted by the Council.<sup>21</sup>

During the period under review, no questions arose concerning the conditions of accession to the Statute of the International Court of Justice. There was no reference to Articles 4, 5 or 6 and no activity with regard to the admission of new Members or the suspension or expulsion of any Member State during the reporting period. In 2018, the Assembly and the Council reflected on best practices regarding the most recent selection and appointment of the Secretary-General, which had taken

<sup>20</sup> Articles 4 (3) and 69 of the Statute of the International Court of Justice provide for the Security Council to make recommendations to the General Assembly regarding the conditions under which a State which is a party to the Statute but is not a Member of the United Nations may participate in electing members of the Court and in making amendments to the Statute.

<sup>21</sup> Article 10 of the statute of the International Residual Mechanism for Criminal Tribunals (resolution 1966 (2010), annex 1).

place in 2016.<sup>22</sup> The Council and the Assembly also collaborated in 2018 on the election of judges to fill vacancies in the roster of the International Residual Mechanism for Criminal Tribunals.

### **Membership in the United Nations: references to Articles 4 and 6**

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

During the period under review, the Council did not recommend the admission of any State for membership in the United Nations. It made no negative recommendations, which would have required the submission of a special report to the General Assembly. In addition, the Council did not recommend the suspension or expulsion of any Member State. Nonetheless, at the 8183rd meeting, held on 20 February 2018 on the item entitled “The situation in the Middle East, including the Palestinian question”, the President of the State of Palestine indicated that, in the future, the State of Palestine would intensify its work to achieve admission to the United Nations as a full Member and called on the Council to realize that goal.<sup>23</sup> At the 8244th meeting, held on 26 April on the same item, the representatives of Cuba and Jordan expressed their countries’ support for the admission of the State of Palestine as a full Member of the Organization.<sup>24</sup>

### **Procedure for the selection and appointment of the Secretary-General**

During the reporting period, the procedure for the selection and appointment of the Secretary-General was discussed briefly by the Council during an open debate on its working methods, held under the item entitled “Implementation of the note by the President

of the Security Council (S/2017/507)”.<sup>25</sup> At the 8175th meeting, held on 6 February 2018, the representative of Estonia, speaking on behalf of the Accountability, Coherence and Transparency Group, encouraged the Council to review its working methods with a view to improving its interaction with the General Assembly, on the basis of discussions held among Council members during the recent selection of a new Secretary-General; recalled the “collective responsibility of the Security Council to reach consensus on a recommendation to the General Assembly for the appointment of the Secretary-General”; and discouraged the use of colour-coded ballots during straw polling to ensure that the equal rights and role of all Council members in the process be upheld. The Group further called for regular public briefings by the Council on the nomination of candidates and for open communication regarding straw poll results.<sup>26</sup> At the same meeting, the representative of Cuba referred to the 2016 selection and appointment of the Secretary-General as an “unprecedented process of consultations and exchange of views with Member States”.<sup>27</sup>

In resolution 72/313, adopted on 17 September 2018, the General Assembly reiterated that the process of selecting and appointing the Secretary-General differed from the process used for the executive heads of the organizations of the United Nations system, given the roles of the Council and the Assembly in accordance with Article 97 of the Charter, and emphasized that the process of selection of the Secretary-General was guided by the principles of transparency and inclusiveness, building on best practices and participation of all Member States.<sup>28</sup> In the same resolution, the Assembly reaffirmed its commitment to continue, through the Ad Hoc Working Group on the Revitalization of the Work of the General Assembly, in accordance with the provisions of Article 97 of the Charter, its examination of innovative ways to improve the process of selecting and appointing the Secretary-General; welcomed the collaboration between the Assembly and the Council in launching the process and circulating information on the nominated candidates during the most recent selection of the Secretary-General; and encouraged

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<sup>22</sup> For more information on the procedure for the selection of the Secretary-General carried out in 2016, see *Repertoire, Supplement 2016–2017*, part IV, sect. I.D.

<sup>23</sup> S/PV.8183, pp. 8–9.

<sup>24</sup> S/PV.8244, pp. 52 and 63.

<sup>25</sup> The meeting was organized by Kuwait, which held the presidency of the Council for the month of February. The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>26</sup> S/PV.8175, p. 36.

<sup>27</sup> *Ibid.*, p. 54.

<sup>28</sup> General Assembly resolution 72/313, para. 66.

improvement in the interaction between the two organs in all stages of the process to further enhance transparency.<sup>29</sup>

### **Appointment of judges and Prosecutor to the International Residual Mechanism for Criminal Tribunals**

By its resolution [1966 \(2010\)](#) of 22 December 2010, the Council established the International Residual Mechanism for Criminal Tribunals to carry out residual functions of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994. According to the statute of the Mechanism, the judges of the Mechanism are elected by the General Assembly from a list submitted by the Council. In the event of a vacancy in the roster of judges of the Mechanism, the Secretary-General appoints a judge after consultation with the Presidents of the Council and of the Assembly, for the remainder of the term of office concerned. After consultation with the President of the Council and the judges of the Mechanism, the Secretary-General appoints the President of the Mechanism from among the judges. The Prosecutor is appointed by the Council on nomination by the Secretary-General.<sup>30</sup>

During the period under review, following the resignation of one judge of the Mechanism and the

passing of another, the Council took note of the intention of the Secretary-General to appoint judges nominated to fill those vacancies for the remainder of their respective terms of office.<sup>31</sup> In addition, the Council took note of the intention of the Secretary-General to reappoint 23 judges and the President of the Mechanism, as well as of the nomination of the Prosecutor for reappointment for a new term of office.<sup>32</sup> Thereafter, by resolution [2422 \(2018\)](#) of 27 June 2018, pursuant to article 14 (4) of the statute of the Mechanism, the Council appointed the Prosecutor of the International Residual Mechanism for Criminal Tribunals, with effect from 1 July 2018 until 30 June 2020.<sup>33</sup> On 16 November 2018, the President of the Security Council addressed a letter to the President of the General Assembly, transmitting to the Assembly the list of nominations for filling two judge vacancies in the roster of the Mechanism.<sup>34</sup> At its 65th plenary meeting, held on 21 December 2018, and pursuant to article 10 of the statute of the Mechanism, the Assembly elected one judge from the list of nominees transmitted by the Council, for a term of office until 30 June 2020.<sup>35</sup> As at end of 2018, the Assembly had not yet agreed on the selection of the second judge. For further details on the actions taken by the Secretary-General, the Council and the Assembly in connection with the International Residual Mechanism for Criminal Tribunals, see table 4.<sup>36</sup>

<sup>31</sup> See [S/2018/191](#) and [S/2018/1152](#).

<sup>32</sup> See [S/2018/627](#). Concerning the President of the Mechanism, the Secretary-General informed the Council that, pursuant to article 11, paragraph 1, of the statute and after consultation with the judges of the Mechanism, he intended to reappoint the current President for a new term of office from 1 July 2018 to 18 January 2019 and to appoint a different judge as President with effect from 19 January 2019 to 30 June 2020 ([S/2018/626](#)).

<sup>33</sup> Resolution [2422 \(2018\)](#), para. 1.

<sup>34</sup> [A/73/578](#).

<sup>35</sup> See General Assembly decision 73/415 A.

<sup>36</sup> For more information, see part I, sect. 27.

<sup>29</sup> *Ibid.*, paras. 69 and 73.

<sup>30</sup> Articles 10, 11 and 14 of the statute of the International Residual Mechanism for Criminal Tribunals (resolution [1966 \(2010\)](#), annex 1).

Table 4

**Actions of the Security Council and the General Assembly concerning the judges and the Prosecutor of the International Residual Mechanism for Criminal Tribunals**

<i>Letter from the Secretary-General</i>	<i>Letter from the President of the Security Council</i>	<i>Security Council resolution and date</i>	<i>Transmittal to the General Assembly</i>	<i>General Assembly decision or resolution and date</i>
<b>International Residual Mechanism for Criminal Tribunals</b>				
<a href="#">S/2018/190</a> , transmitting nomination to fill one judge vacancy in the roster of the Mechanism	<a href="#">S/2018/191</a> , taking note of the intention of the Secretary-General to appoint the judge nominated to fill the vacancy			
<a href="#">S/2018/255</a> , transmitting letter from the President of the General Assembly concurring with the appointment of the nominated judge				
<a href="#">S/2018/626</a> , informing Council of his intention to reappoint 23 judges and the President of the Mechanism and transmitting the nomination of the Prosecutor for reappointment	<a href="#">S/2018/627</a> , taking note of the intention of the Secretary-General to reappoint 23 judges and the President of the Mechanism, as well as his nomination of the Prosecutor for reappointment	<a href="#">2422 (2018)</a> 27 June 2018 (para. 1)		
<a href="#">S/2018/652</a> , transmitting letter from the President of the General Assembly concurring with the reappointment of 23 judges of the Mechanism				
<a href="#">S/2018/963</a> , transmitting information on the nominations for the two judge vacancies in the roster of the Mechanism	<a href="#">S/2018/756</a> , requesting the Secretary-General to invite Member States to submit nominations to fill two judge vacancies in the roster of the Mechanism		<a href="#">A/73/578</a>	73/415 A 21 December 2018
<a href="#">S/2018/1151</a> , transmitting nomination to fill one judge vacancy in the roster of the Mechanism	<a href="#">S/2018/1152</a> , taking note of the intention of the Secretary-General to appoint the judge nominated to fill the vacancy <sup>a</sup>			

<sup>a</sup> See [S/2019/84](#).

**E. Election of members of the International Court of Justice**

*Rule 40*

*Voting in the Security Council shall be in accordance with the relevant Articles of the Charter and of the Statute of the International Court of Justice.*

*Rule 61*

*Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes.*

The election of members of the International Court of Justice requires action by the Council in conjunction with the General Assembly, with the two organs proceeding independently of one another. The procedure for the election is set out in rules 40 and 61 of the provisional rules of procedure of the Council,<sup>37</sup> Articles 4, 8, 10 to 12, 14 and 15 of the Statute of the International Court of Justice;<sup>38</sup> and rules 150 and 151 of the rules of procedure of the Assembly.<sup>39</sup>

During the period under review, the Council held an election for one member of the International Court of Justice, to fill a vacancy resulting from the resignation of a judge, as described in case 1.

### Case 1

#### Election of a member of the International Court of Justice

By a note dated 19 February 2018, the Secretary-General informed the Council of the resignation of a judge from Japan as a member of the Court, effective 7 June 2018.<sup>40</sup> At its 8193rd meeting, held on 28 February 2018, the Council met under the item entitled “Date of election to fill a vacancy in the International Court of Justice”.<sup>41</sup> At the meeting, the Council adopted without a vote resolution [2403 \(2018\)](#), by which it decided, in accordance with Article 14 of the Statute of the Court, that the election to fill the vacancy would take place on 22 June 2018 at a meeting of the Council and at a meeting of the General Assembly at its seventy-second session.<sup>42</sup> In accordance with Article 5 (1) of the Statute of the

Court, national groups were invited to submit nominations to the Secretary-General no later than 16 May 2018. The name and curriculum vitae of the candidate nominated by the national groups were transmitted in separate notes by the Secretary-General as documents of the Assembly and the Council.<sup>43</sup>

At its 8292nd meeting, held on 22 June 2018, the Council proceeded with the election of a member of the International Court of Justice to fill the above-mentioned vacancy.<sup>44</sup> On the first ballot, at the 8292nd meeting of the Council and the 97th plenary meeting of the General Assembly, the candidate from Japan obtained the requisite absolute majority of votes in both bodies and was, therefore, elected as a member of the Court for a term of office beginning on 22 June 2018, until 5 February 2021, in accordance with Article 10 (1) and Article 15 of the Statute of the Court.<sup>45</sup>

## F. Annual and special reports of the Security Council to the General Assembly

### Article 15, paragraph 1

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

### Article 24, paragraph 3

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

### Rule 60, paragraph 3

*If the Security Council does not recommend the applicant State for membership or postpones the consideration of the application, it shall submit a special report to the General Assembly with a complete record of the discussion.*

During 2018, the Council maintained its practice of submitting annual reports to the General Assembly pursuant to Article 24 (3) of the Charter. One annual report was submitted to the Assembly covering, for the first time and in accordance with the note by the President of the Council dated 30 August 2017,<sup>46</sup> an

<sup>37</sup> Rule 40 of the provisional rules of procedure is also covered in part II, sect. VIII, “Decision-making and voting”.

<sup>38</sup> Articles 4, 10 to 12, 14 and 15 of the Statute of the International Court of Justice establish the procedures for the following: (a) the nomination of the judges by the national groups in the Permanent Court of Arbitration; (b) the majority necessary for the election of judges; (c) the number of meetings to be held for the purpose of the election of judges; (d) the holding of a joint conference in the event of more than three meetings of the Security Council and the General Assembly; (e) the filling of vacancies; and (f) the term of office applied to elected judges filling out a vacancy. Article 8 provides that the two organs shall proceed independently.

<sup>39</sup> Rules 150 and 151 of the General Assembly provide that the election of the members of the Court shall take place in accordance with the Statute of the Court and that any meeting of the Assembly held in pursuance of the Statute of the Court for the purpose of electing members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained, in one or more ballots, an absolute majority of votes.

<sup>40</sup> [S/2018/133](#).

<sup>41</sup> [S/PV.8193](#).

<sup>42</sup> Resolution [2403 \(2018\)](#), third preambular paragraph and operative paragraph.

<sup>43</sup> [A/72/873-S/2018/488](#) and [A/72/874-S/2018/489](#).

<sup>44</sup> See the memorandum by the Secretary-General on the election of a member of the International Court of Justice ([A/72/872-S/2018/487](#)).

<sup>45</sup> [S/PV.8292](#) and [A/72/PV.97](#). See also General Assembly decision 72/404 B.

<sup>46</sup> [S/2017/507](#).



entire calendar year, from 1 January to 31 December 2017.<sup>47</sup> The introduction of the annual report was prepared by the delegation of China, as President of the Council for the month of July 2017, in accordance with the note by the President dated 30 August 2017.

The Council considered and adopted without a vote the draft annual report at its 8335th meeting, held on 30 August 2018.<sup>48</sup> During the meeting, the representative of China highlighted the importance of the report as required under Article 24 of the Charter and noted that, in summarizing the activities of the Council for the year 2017, China had “sought to be as objective as possible” and had “made the utmost effort to describe the background information for all Council actions in order to improve the transparency of the Council’s work”. He further indicated that, during the drafting process, China had sought the views and comments of relevant Members of the United Nations.<sup>49</sup>

The General Assembly considered the annual report at the 114th plenary meeting of its seventy-second session under the item entitled “Report of the Security Council”, on 12 September 2018.<sup>50</sup> In addition, as in previous years, the Assembly, in a resolution adopted under the item entitled “Revitalization of the work of the General Assembly”, commended improvements in the quality of the annual report and welcomed the willingness of the Council to continue to consider other suggestions concerning further improvements.<sup>51</sup> No special reports were submitted by the Council to the Assembly during the reporting period.

## Case 2

### Implementation of the note by the President of the Security Council (S/2017/507)

At its 8175th meeting, held on 6 February 2018 under the item entitled “Implementation of the note by the President of the Security Council (S/2017/507)”, the Council held an open debate on its working methods organized by Kuwait, which held the presidency of the Council for the month.<sup>52</sup> During the meeting, the Council discussed the improvement of its annual report to the General Assembly. Several speakers stated that the annual reports of the Council to the Assembly should

be more analytical.<sup>53</sup> The representative of Hungary said that the reports should contain a more substantive and comprehensive evaluation of the work of the Council.<sup>54</sup> The representative of the Islamic Republic of Iran, echoed by the representative of Algeria, added that the reports should assess the work of the Council, include the views expressed by members during the consideration of agenda items and elaborate on the circumstances leading to the adoption of outcomes.<sup>55</sup> The representative of Lebanon stressed that the reports should “ask difficult questions”, “draw on lessons learned” and “call for common action”. She further expressed interest in seeing featured, in the upcoming report covering the year 2017, the reasons behind the “crippling effect of vetoes” exercised by permanent Council members during 2017.<sup>56</sup> The representative of Colombia, echoed by the representative of Cuba, noted that it was essential that annual reports submitted by the Council to the Assembly be informative and contribute to a better understanding of the decision-making process in the Council, for the benefit of the general public and the wider membership.<sup>57</sup> Furthermore, the representatives of Ukraine and Algeria stressed the importance of the timely issuance of monthly assessments to aid the preparation of the annual reports.<sup>58</sup> The representatives of the Islamic Republic of Iran and Algeria added that the Assembly might “consider proposing parameters for the elaboration of such assessments”.<sup>59</sup> The representative of the Netherlands welcomed the inclusion of information on the work of Security Council sanctions committees and of international tribunals in the Council’s annual reports.<sup>60</sup> In addition, the representatives of the Islamic Republic of Iran, Cuba and Algeria called upon the Council to submit special reports for consideration by the Assembly in accordance with Articles 15 and 24 of the Charter.<sup>61</sup>

## G. Relations with subsidiary organs established by the General Assembly

During the period under review, the Committee on the Exercise of the Inalienable Rights of the

<sup>47</sup> A/72/2.

<sup>48</sup> S/2018/797.

<sup>49</sup> S/PV.8335, p. 2.

<sup>50</sup> A/72/PV.114. See also General Assembly decision 72/563.

<sup>51</sup> General Assembly resolution 72/313, para. 17.

<sup>52</sup> The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>53</sup> S/PV.8175, p. 26 (Hungary), p. 31 (Islamic Republic of Iran), p. 38 (Lebanon), p. 41 (Colombia), p. 55 (Cuba) and p. 62 (Algeria).

<sup>54</sup> Ibid., p. 26.

<sup>55</sup> Ibid., p. 31 (Islamic Republic of Iran) and p. 62 (Algeria).

<sup>56</sup> Ibid., p. 38.

<sup>57</sup> Ibid., p. 41 (Colombia) and p. 55 (Cuba).

<sup>58</sup> Ibid., p. 46 (Ukraine) and p. 62 (Algeria).

<sup>59</sup> Ibid., p. 31 (Islamic Republic of Iran) and p. 62 (Algeria).

<sup>60</sup> Ibid., p. 20.

<sup>61</sup> Ibid., p. 31 (Islamic Republic of Iran), p. 55 (Cuba) and p. 62 (Algeria).

Palestinian People participated in the work of the Council. The Chair or Vice-Chair of the Committee participated in four meetings concerning the situation in the Middle East, including the Palestinian question.<sup>62</sup> On the occasion of the International Day of Solidarity with the Palestinian People, the President of the Council participated in the 393rd meeting of the Committee, on 28 November 2018.<sup>63</sup>

Several decisions adopted by the Security Council contained references to the Human Rights Council. In those decisions, the Council called upon the Government of the Democratic Republic of the Congo to continue to cooperate with the team of international experts on the situation in the Kasai

regions, as mandated by the Human Rights Council in its resolution 35/33; recalled the commitments that the Government of Burundi undertook during the thirty-sixth session of the Human Rights Council to re-establish full mutual cooperation with the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights; and welcomed the interaction of Morocco with the special procedures of the Human Rights Council. No decision of the Council made reference to the Special Committee on Peacekeeping Operations during the reporting period. Decisions concerning the relations with the Peacebuilding Commission, a joint subsidiary organ of the Security Council and the General Assembly, are covered in detail in part IX, section VII.

Table 5 below contains all the provisions of the decisions in which the Security Council made explicit reference to the Human Rights Council.

<sup>62</sup> S/PV.8167, p. 61; S/PV.8244, pp. 55–56; S/PV.8316, pp. 41–42; and S/PV.8375 (Resumption 1), pp. 15–16.

<sup>63</sup> A/AC.183/PV.393.

Table 5  
Security Council decisions containing references to subsidiary organs of the General Assembly

<i>Decision and date</i>	<i>Provision</i>
<b>Human Rights Council</b>	
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution 2409 (2018) 27 March 2018	Reiterates its condemnation of the violence witnessed in the Kasai region over the past year, further reiterates the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations or abuses of human rights in the region, as well as its intention to closely monitor progress of the investigations into these violations and abuses, including the joint investigations by the Government of the Democratic Republic of the Congo, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, in order to bring to justice and hold accountable all those responsible, and looks forward to their results; further calls upon the Government of the Democratic Republic of the Congo to continue to cooperate with the team of international experts on the situation in the Kasai regions, as mandated by the Human Rights Council in its resolution 35/33, and urges the Government of the Democratic Republic of the Congo to fully cooperate with the United Nations team deployed, as agreed, to assist the Congolese authorities investigations into the deaths of the two United Nations experts in March 2017, and ensure all perpetrators are brought to justice and held accountable (para. 14)
<b>The situation in Burundi</b>	
S/PRST/2018/7 5 April 2018	The Security Council reiterates its regret at the decision by the Government of Burundi to suspend all cooperation and collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR), which has been present in the country since 1995 to strengthen the country's rule of law institutions, and calls for a swift solution through dialogue between OHCHR and the Government in order to enable OHCHR to fully resume its activities, including its monitoring and reporting functions, and fulfil its mandate. The Security Council recalls the commitments that the Government of Burundi undertook during the thirty-sixth session of the Human Rights Council to re-establish full mutual cooperation with the Human Rights Council and OHCHR, including full cooperation with the Office of the High Commissioner in Bujumbura, and to accept the visit of a team of three experts from the Office to collect information on the human rights situation in Burundi. It notes that discussions regarding revisions to the draft memorandum of understanding between Burundi and the United Nations concerning the updated terms for the Office of the High Commissioner in Burundi have been ongoing for over a year and urges the Government of Burundi to take steps to swiftly finalize the agreement with OHCHR without further delay (thirteenth paragraph)



**The situation concerning Western Sahara**

<p>Resolution <a href="#">2414 (2018)</a> 27 April 2018</p>	<p>Welcoming in this regard, steps and initiatives taken by Morocco, and the role played by the National Council on Human Rights regional commissions operating in Dakhla and Laayoune, and the country's interaction with special procedures of the Human Rights Council (eighteenth preambular paragraph)</p> <p>See also resolution <a href="#">2440 (2018)</a>, twentieth preambular paragraph</p>
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The relationship between the Security Council and the Human Rights Council was referred to in Council deliberations in the context of the protection of civilians in armed conflict and the working methods of the Council.<sup>64</sup> Participants in Security Council meetings also reaffirmed the mandate of the Special Committee on Peacekeeping Operations and underlined its relevance during Council discussions relating to the mandates of peacekeeping operations in the context of the situations in Mali and Western Sahara,<sup>65</sup> as well as during deliberations concerning the review of peacekeeping operations and cooperation in that regard with regional and subregional organizations, including the African Union.<sup>66</sup> The Security Council also referred to the bridging and advisory role of the Peacebuilding Commission in deliberations on the cooperation between the United Nations and regional and subregional organizations,<sup>67</sup> the maintenance of international peace and security,<sup>68</sup> the protection of civilians in armed conflict<sup>69</sup> and women and peace and security.<sup>70</sup>

Key discussions on the interaction between the Council and the subsidiary organs established by the General Assembly with respect to their distinct functions and mandates are highlighted in cases 3, 4, 5 and 6, in relation to the situation in Myanmar, United Nations

peacekeeping operations, the implementation of the note by the President of the Security Council ([S/2017/507](#)), which concerns the working methods of the Council, and peacebuilding and sustaining peace, respectively.

**Case 3**  
**The situation in Myanmar**

During the period under review, the Council discussed its relations with the Human Rights Council at its 8381st meeting, held on 24 October 2018, under the item entitled “The situation in Myanmar”, during which the Council was briefed on the issue of Rakhine State by the Chair of the independent international fact-finding mission on Myanmar established by the Human Rights Council.

During a discussion on the provisional agenda of the meeting prior to its adoption, the representative of China voiced his country's opposition to the holding of the meeting, indicating that the fact-finding mission was a special mechanism of the Human Rights Council that did not have a mandate to brief the Security Council. He added that there was no precedent of the Security Council receiving a briefing from a country-specific special mechanism of the Human Rights Council and that, by receiving such a briefing, the Council would be encroaching on the mandates of the General Assembly and the Human Rights Council, violating provisions of the Charter.<sup>71</sup> The representative of the Russian Federation indicated that the report of the fact-finding mission had already been discussed both in the Human Rights Council and in the Third Committee of the General Assembly and added that there was “no added value” in considering the report also in the Security Council and that doing so would “cast doubt on the remit of the Human Rights Council”.<sup>72</sup> In contrast, the representative of the United Kingdom, speaking also on behalf of Côte d'Ivoire, France, Kuwait, the Netherlands, Peru, Poland, Sweden and the United States, explained that the group of Council members had requested the Chair of the fact-finding mission to brief the Council because the

<sup>64</sup> See, for example, [S/PV.8264](#), pp. 38–39 (Germany), p. 41 (Hungary) and p. 71 (Montenegro), in connection with the protection of civilians in armed conflict; and [S/PV.8175](#), pp. 58–59 (Slovakia), in connection with the working methods of the Council.

<sup>65</sup> [S/PV.8298](#), p. 5 (Russian Federation); and [S/PV.8246](#), p. 4. (Russian Federation).

<sup>66</sup> [S/PV.8407](#), p. 46 (Bolivarian Republic of Venezuela), pp. 47–48 (Indonesia) and pp. 61–62 (Senegal), with regard to peace and security in Africa; and [S/PV.8414](#), p. 18 (Russian Federation), in connection with the cooperation between the United Nations and regional and subregional organizations.

<sup>67</sup> [S/PV.8414](#), p. 29 (Netherlands), p. 45 (South Africa) and p. 64 (European Union).

<sup>68</sup> [S/PV.8262](#), p. 70 (Kenya); [S/PV.8334](#), p. 49 (Romania), p. 51 (Ireland) and p. 58 (Italy); and [S/PV.8372](#), p. 12 (Sweden).

<sup>69</sup> [S/PV.8264](#), p. 83 (Algeria).

<sup>70</sup> [S/PV.8382](#), p. 19 (China).

<sup>71</sup> [S/PV.8381](#), p. 2.

<sup>72</sup> *Ibid.*, pp. 2–3.

situation in Myanmar clearly endangered international peace and security and the report of the fact-finding mission included “a specific request for the Council to act” to ensure accountability for crimes in Myanmar.<sup>73</sup> The provisional agenda was adopted, having received nine votes in favour, three votes against and three abstentions in a procedural vote.<sup>74</sup> After the vote, the representative of the Plurinational State of Bolivia explained the reasons for his country’s vote against the holding of the meeting, pointing out that there was no precedent of a special mechanism of the Human Rights Council reporting to the Security Council and that such reporting would be beyond the mandate of the fact-finding mission in question. He underscored the division of labour among the principal organs of the United Nations and stressed the importance of respecting the mandate of each organ, noting that human rights issues had “their own space for debate” within the Human Rights Council.<sup>75</sup> While acknowledging and appreciating the Chair’s briefing, the representative of Kazakhstan indicated that his country had abstained during the procedural vote because the invitation to brief the Council extended to the fact-finding mission – mandated by the Human Rights Council – was beyond the mission’s mandate.<sup>76</sup> The representatives of the Russian Federation and China expressed regret that the Security Council had decided to proceed with the briefing by the Chair of the fact-finding mission without the consensus of Council members.<sup>77</sup> Moreover, the representative of Ethiopia explained that his country did not believe that the Council’s course of action would help to make progress in ongoing efforts, where building mutual confidence and trust among those concerned were so critical.<sup>78</sup>

The representative of the Netherlands stressed that the findings of the fact-finding mission demanded action not only from the Human Rights Council, the General Assembly and the Special Envoy of the Secretary-General on Myanmar, but also from the Security Council.<sup>79</sup> The representatives of the United States, Sweden and Peru highlighted the importance of the briefing by the Chair of the fact-finding mission to

the Security Council.<sup>80</sup> The representative of France emphasized the importance for the Security Council to “continue to rely upon the work of the instruments established by the Human Rights Council in order to fully carry out its mandate to maintain international peace and security”.<sup>81</sup> The representative of Kuwait welcomed the recommendation of the fact-finding mission that the Security Council should ensure accountability for crimes in Myanmar.<sup>82</sup> The representative of Bangladesh, who had been invited under rule 37 of the provisional rules of procedure, urged the Council to consider a course of action in reaction to the report of the fact-finding mission in order to “pre-empt the possible recurrence of such crimes in Myanmar and elsewhere”, adding that “it would be an affront to the victims to relegate the action” on the report solely to the General Assembly.<sup>83</sup>

#### Case 4 United Nations peacekeeping operations

During the period under review, the Council discussed the role of the Special Committee on Peacekeeping Operations in two out of seven meetings held under the item entitled “United Nations peacekeeping operations”.

At its 8218th meeting, held on 28 March 2018, the Council held a high-level open debate organized by the Netherlands, which held the presidency of the Council for the month, under the sub-item entitled “Collective action to improve United Nations peacekeeping operations”.<sup>84</sup> At the meeting, the Deputy Minister of Defence of Kazakhstan emphasized that all new proposals and conditions in relation to peacekeeping operations had to be carefully reviewed by the Special Committee.<sup>85</sup> The representative of Equatorial Guinea, the Vice-Minister for Foreign Affairs of the Bolivarian Republic of Venezuela (speaking on behalf of the Non-Aligned Movement) and the representative of Cuba underscored that the Special Committee was the only body of the United Nations tasked with studying all issues related to peacekeeping operations, including measures to improve the Organization’s ability to carry out those operations.<sup>86</sup> The representative of Brazil indicated that the Special Committee offered Member States “a great

<sup>73</sup> Ibid., p. 3.

<sup>74</sup> Ibid., p. 3 (*in favour*: Côte d’Ivoire, France, Kuwait, Netherlands, Peru, Poland, Sweden, United Kingdom, United States; *against*: Bolivia (Plurinational State of), China, Russian Federation; *abstaining*: Equatorial Guinea, Ethiopia, Kazakhstan). For more information on procedural votes, see part II, sect. VIII.C.

<sup>75</sup> Ibid., p. 4.

<sup>76</sup> Ibid., p. 19.

<sup>77</sup> Ibid., p. 20 (Russian Federation) and p. 21 (China).

<sup>78</sup> Ibid., p. 15.

<sup>79</sup> Ibid., p. 9.

<sup>80</sup> Ibid., p. 9 (United States), p. 13 (Sweden) and p. 17 (Peru).

<sup>81</sup> Ibid., p. 10.

<sup>82</sup> Ibid., p. 12.

<sup>83</sup> Ibid., p. 27.

<sup>84</sup> The Council had before it a concept note annexed to a letter dated 2 March 2018 (S/2018/184).

<sup>85</sup> S/PV.8218, p. 15.

<sup>86</sup> Ibid., p. 27 (Equatorial Guinea), p. 35 (Bolivarian Republic of Venezuela) and p. 74 (Cuba).

opportunity” to reflect upon and help to strengthen, in a democratic setting, “the fundamental political consensus” that underpinned peacekeeping partnerships.<sup>87</sup> The representative of Mexico said that the Council needed to improve its interaction with other organs of the Organization in order to maximize the efficiency, effectiveness and security of their members and to allocate adequate, timely and predictable resources to operations.<sup>88</sup> The representative of Guatemala said that the development of United Nations peacekeeping mandates calling for more robust operations for the protection of civilians should be carefully considered by the Special Committee in order to analyse the scope of such development.<sup>89</sup> The representative of Slovenia stressed the need for close cooperation between the Council, the Special Committee and other partners in order to improve the security of peacekeepers and civilians alike.<sup>90</sup> The representative of Uruguay, commending the efforts carried out in different forums, pointed out that the recent session of the Special Committee had resulted in “points of agreement” that addressed various aspects of peacekeeping, such as the security and performance of peacekeepers, the concept of the protection of civilians, and triangular cooperation.<sup>91</sup>

At its 8349th meeting, held on 12 September 2018, regarding peacekeeping reform, the Under-Secretary-General for Peacekeeping Operations informed the Council that the Secretariat was investing significant resources and efforts in developing an integrated performance policy framework, as requested by the Special Committee on Peacekeeping Operations and supported by the Council.<sup>92</sup> The representative of the Russian Federation indicated that Member States, with the help of the Special Committee, should be able to reach a consensus solution on the effectiveness of peacekeeping. He further noted that the effectiveness of the blue helmets was dependent on “transparent, comprehensible work by the Secretariat”, whose training materials and guidelines should “correspond fully with the parameters defined by the Special Committee”. He added that the Special Committee was the platform best suited to support a trilateral cooperation format to address the matter of peacekeeping performance and warned against the Council bypassing the Special Committee.<sup>93</sup>

<sup>87</sup> *Ibid.*, p. 36.

<sup>88</sup> *Ibid.*, p. 42.

<sup>89</sup> *Ibid.*, p. 43.

<sup>90</sup> *Ibid.*, p. 62.

<sup>91</sup> *Ibid.*, p. 63.

<sup>92</sup> *S/PV.8349*, pp. 3–4.

<sup>93</sup> *Ibid.*, pp. 11–12.

## Case 5 Implementation of the note by the President of the Security Council (S/2017/507)

At its 8175th meeting, held on 6 February 2018, the Council held an open debate under the item entitled “Implementation of the note by the President of the Security Council (S/2017/507)” organized by Kuwait, which held the presidency of the Council for the month.<sup>94</sup> During the meeting, many speakers discussed ways to enhance the relation of the Council with the Peacebuilding Commission. The representatives of the United Kingdom, Norway and Argentina welcomed the new language contained in the note by the President with regard to maintaining communication with the Commission in its advisory role to the Council.<sup>95</sup> The representatives of Germany and Italy, also referring to the language in the note by the President, stressed the need for closer cooperation between the Council and the Commission and for the Council to “regularly request, deliberate and draw upon the Commission’s specific, strategic and targeted advice”.<sup>96</sup> The representative of Sweden similarly underscored that the relationship between the Council and the Commission should become a closer and more strategic one.<sup>97</sup> The representative of Guatemala welcomed the language included in the note by the President on the Council’s interaction with the Commission and its configurations. He also stressed, echoed by the representative of Slovakia, that it was important that the Council draw from the Commission’s advisory role and from its configurations in order to achieve efficiencies in conflict prevention and sustaining peace.<sup>98</sup> The representative of Indonesia stated that “greater drawing” by the Council on the expertise of the Commission would enable the Council to develop “more comprehensive solutions” to conflicts.<sup>99</sup>

The representatives of China, Switzerland (speaking on behalf of the Accountability, Coherence and Transparency Group) and Morocco pointed to the regular exchanges between the Council and the Peacebuilding Commission and its country-specific configurations as areas in which progress had been

<sup>94</sup> The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>95</sup> *S/PV.8175*, pp. 14–15 (United Kingdom), p. 30 (Norway) and p. 33 (Argentina).

<sup>96</sup> *Ibid.*, pp. 29–30 (Germany) and p. 43 (Italy).

<sup>97</sup> *Ibid.*, p. 19.

<sup>98</sup> *Ibid.*, p. 50 (Guatemala) and pp. 58–59 (Slovakia).

<sup>99</sup> *Ibid.*, p. 48.

made in improving the Council's working methods and increasing its effectiveness.<sup>100</sup> The representative of Japan noted that pen holders of Council decisions should be proactive in reaching out to those outside the Council with expertise, including the Chair of the Commission.<sup>101</sup> The representative of Brazil stated that deliberations in the Council would benefit from more frequent exchanges of views with the Chairs of country-specific configurations of the Commission, which, he indicated, could be done informally, in addition to formal briefings to the Council. He suggested that special representatives and special envoys of the Secretary-General could brief the configurations before Council meetings to enable the Commission to play its advisory role to the Council. He further noted that the Council could consider inviting the Chairs of country-specific configurations to join some of its official missions to the field.<sup>102</sup> The representative of Germany expressed his country's conviction that the relationship between the Council and the Commission should be strengthened to enhance the Organization's ability to move from crisis response to long-term peacebuilding. He added that one way of enhancing such collaboration would be by regularly inviting the Chairs of country-specific configurations to participate in public Council meetings.<sup>103</sup> The representative of South Africa stressed the need to continue enhancing the relationship between the two bodies. He further highlighted the importance of the Commission, in its advisory role to the Council, in improving coordination and coherence among international actors in the areas of prevention and sustaining peace in Africa. He stated that the Council "could do more" to draw on the expertise of the Commission during the renewal of mission mandates.<sup>104</sup> The representative of Turkey said that better coordination between the Council and the Commission was crucial.<sup>105</sup> The representative of Portugal stressed the importance of enhanced consultation with the Commission in the areas of conflict prevention, peacebuilding and sustaining peace and encouraged the Council to regularly invite the Chairs of the Commission and of its country-specific configurations as briefers or participants in informal dialogues, as necessary.<sup>106</sup> The representative of Belgium encouraged "all initiatives to galvanize" the

relationship between the Council and the Commission, adding that the activities of the Commission should contribute to enriching the Council's discussions in meetings of country-specific configurations and in those devoted to regions or topics. He also suggested that the Council invite Chairs of country-specific configurations to participate in closed consultations upon the Commission's return from a visit to a specific country.<sup>107</sup> The representative of Costa Rica stated that the practice of annual consultations between the Council and the Commission should be institutionalized.<sup>108</sup> The representative of Egypt indicated that the programmes of work of the Council and the Commission must be coordinated to ensure that the Council received the Commission's contribution at the right time and before the Council considered the issues concerned. He also stated that the procedure for proposing informal informative discussions with the Commission on issues on the agenda of the Council must be streamlined.<sup>109</sup>

#### **Case 6 Peacebuilding and sustaining peace**

During 2018, the Council discussed its interaction with the Peacebuilding Commission during two of the five meetings held in 2018 under the item entitled "Peacebuilding and sustaining peace".

At its 8243rd meeting, held on 25 April 2018, the Council held a high-level briefing organized by Peru, which held the presidency of the Council for the month, to discuss the report of the Secretary-General on peacebuilding and sustaining peace.<sup>110</sup> During the meeting, the Secretary-General indicated that the Commission could bring far greater strategic coherence to international efforts by "providing a platform for complementarity and partnership across the pillars of the United Nations" and urged the Council to build on the example of collaboration between the two bodies with regard to the Sahel to achieve "greater operational and policy coherence in other contexts and situations".<sup>111</sup> The State Secretary for Regional Affairs and Multilateral Global Affairs of Romania, in his capacity as Chair of the Commission, referring to the draft resolutions on peacebuilding and sustaining peace being considered at the time by the General Assembly

<sup>100</sup> Ibid., p. 22 (China), p. 29 (Switzerland) and p. 39 (Morocco).

<sup>101</sup> Ibid., p. 24.

<sup>102</sup> Ibid., p. 25.

<sup>103</sup> Ibid., p. 30.

<sup>104</sup> Ibid., p. 32.

<sup>105</sup> Ibid., pp. 34–35.

<sup>106</sup> Ibid., p. 37.

<sup>107</sup> Ibid., p. 46.

<sup>108</sup> Ibid., p. 61.

<sup>109</sup> Ibid., p. 64.

<sup>110</sup> S/2018/43. The Council also had before it a concept note annexed to a letter dated 9 April 2018 from the representative of Peru to the Secretary-General (S/2018/325). For more information on high-level meetings, see part II, sect. I.A.2.

<sup>111</sup> S/PV.8243, p. 2.



and the Council, reaffirmed the readiness of the Commission to provide a forum for Member States to discuss the recommendations and options contained in the report of the Secretary-General. He further underscored that the Commission served as a bridge between the three principal organs of the United Nations and noted that, through its convening role, the Commission fostered coherence at the intergovernmental level and helped the Organization to be more valuable, strategic and effective in the field.<sup>112</sup> The Minister for Foreign Affairs of Peru welcomed the cooperation between the Council and the Commission.<sup>113</sup> The Minister for Foreign Affairs of Sweden said that the Commission was one of the tools at the disposal of the Council for engaging in early action and added that the Commission was “a vehicle for collaborative action and partnerships”, which was “uniquely placed to convene international actors for coordinated and strategic responses for sustaining peace”. She further noted that the Council could unlock the full potential of the Commission through more informal and frequent interactions between the two bodies.<sup>114</sup> The Vice-Minister for Foreign Affairs of the Netherlands stressed the need for the Council and the Commission to complement each other in the preparation for the transition of peacekeeping operations, as the Commission could provide the Council with the perspectives of various stakeholders and advice on socioeconomic and long-term development challenges.<sup>115</sup> The representative of China highlighted the comparative advantage of the Commission in integrating political, security and development aspects of situations and expressed support for a greater use of the Commission’s advisory role to the Council.<sup>116</sup> The representatives of the United Kingdom and France praised the recent collaboration between the Council and the Commission in the development of a peacebuilding plan for Liberia.<sup>117</sup> The representative of the Plurinational State of Bolivia indicated that strengthening dialogue and coordination among the General Assembly, the Security Council and the Peacebuilding Commission should allow for complementarity between peace and security initiatives, with the goal of achieving sustainable peace.<sup>118</sup> The representative of Ethiopia emphasized the need to scale up the contributions of the Commission in its convening, bridging and advisory roles and welcomed recent advice provided

by the Commission to the Council on various regional and country-specific issues.<sup>119</sup>

At its 8413th meeting, held on 5 December 2018 under the same item and under the sub-item entitled “Post-conflict reconstruction and peace, security and stability”, the Council held a high-level debate organized by Côte d’Ivoire, which held the presidency for the month.<sup>120</sup> At the meeting, the Council continued to discuss the collaboration between the two bodies. The representative of the Russian Federation stated that the potential of the Peacebuilding Commission as an advisory body had yet to be fully realized and indicated that it would be beneficial for the Council to be informed about the national peacebuilding priorities of States whose situations were on both bodies’ agendas, adding that the transmission of such information and the Commission’s unanimous advice could be “an excellent complement” to the reports of the Secretary-General.<sup>121</sup> The representative of France commended the valuable work of the Commission as a complement to the work of the Council.<sup>122</sup> The representative of Sweden underscored that the Commission was a key adviser to the Council in sustaining peace because it could convene actors around the nexus between peace and security, human rights and development, as well as assist with regional approaches, work to strengthen national ownership and develop partnerships for innovative solutions.<sup>123</sup> The representative of Ethiopia welcomed the comprehensive advice provided by the Commission to the Council on regional and country-specific issues.<sup>124</sup>

## H. Other Security Council practice bearing on relations with the General Assembly

During the period under review, the Council was briefed once by the Permanent Representative of Qatar on behalf of the President of the General Assembly, during an open debate held on 9 November 2018 under the sub-item entitled “Strengthening multilateralism and the role of the United Nations” organized by China, which held the presidency of the Council for the month.<sup>125</sup> At the meeting, the Permanent Representative

<sup>112</sup> *Ibid.*, pp. 4–5.

<sup>113</sup> *Ibid.*, p. 8.

<sup>114</sup> *Ibid.*, pp. 9–10.

<sup>115</sup> *Ibid.*, p. 12.

<sup>116</sup> *Ibid.*, p. 18.

<sup>117</sup> *Ibid.*, p. 13 (United Kingdom) and p. 15 (France).

<sup>118</sup> *Ibid.*, p. 16.

<sup>119</sup> *Ibid.*, p. 25.

<sup>120</sup> The Council had before it a concept note annexed to a letter dated 28 November 2018 from the representative of Côte d’Ivoire to the Secretary-General (*S/2018/1063*).

<sup>121</sup> *S/PV.8413*, p. 17.

<sup>122</sup> *Ibid.*, p. 22.

<sup>123</sup> *Ibid.*, p. 24.

<sup>124</sup> *Ibid.*, p. 26.

<sup>125</sup> *S/PV.8395*. The Council had before it a concept note annexed to a letter dated 1 November 2018 from the representative of China to the Secretary-General (*S/2018/982*).

read out a statement on behalf of the President of the Assembly, in which the President of the Assembly emphasized the need to foster mutually reinforcing and coordinated efforts among the main organs of the Organization to boost and uphold multilateralism and underscored that the Assembly, the Council and other United Nations organs and entities all played crucial, complementary roles, within their respective mandates, in fostering international peace and security. The President of the Assembly further indicated that she would continue regular consultations and periodic exchanges of information with the Secretary-General, the President of the Economic and Social Council and the President of the Security Council on “important issues pertaining to international peace and security”.<sup>126</sup> On 31 October 2018, the President of the Council had participated in a dialogue with the Presidents of the General Assembly and the Economic and Social Council on the theme “Renewing commitment to multilateralism”.

There were no special sessions of the General Assembly convoked at the request of the Security Council pursuant to Article 20 of the Charter. Nonetheless, in June 2018, the Assembly resumed its tenth emergency special session,<sup>127</sup> pursuant to Assembly resolution 377 (V) of 3 November 1950. This was done at the request of the Chair of the Group of Arab States and the Chair of the Summit of the Organization of Islamic Cooperation,<sup>128</sup> as a result of the negative vote by the United States on 1 June 2018 on a draft resolution regarding the protection of the Palestinian civilian population in the Occupied Palestinian Territory, including East Jerusalem.<sup>129</sup>

A number of resolutions and presidential statements adopted by the Council during 2018 contained specific references to the General Assembly in connection with policy and implementation issues other than those covered in subsections A, D, E and G above. With regard to the environmental footprint of large United Nations peacekeeping operations, the Council requested the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, the United Nations Multidimensional Integrated Stabilization Mission in Mali and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to consider the

environmental impact of their operations when fulfilling their mandated tasks and to manage them as appropriate and in accordance with applicable and relevant Assembly resolutions and United Nations rules and regulations.<sup>130</sup>

On the question concerning Haiti, the Council recalled General Assembly resolution 71/161 on the new United Nations approach to cholera in Haiti and noted the continued progress in reductions of suspected cases of cholera, while reaffirming the importance of the continued support of the international community to the United Nations efforts to combat cholera in Haiti.<sup>131</sup>

In the context of peacebuilding and sustaining peace, the Council took note of the decision of the General Assembly to invite the relevant United Nations bodies and organs, including the Peacebuilding Commission, to further advance, explore and consider the implementation, as appropriate, of the recommendations and options contained in the report of the Secretary-General on peacebuilding and sustaining peace, during the seventy-second and seventy-third sessions of the Assembly, and of the decision of the Assembly to request the Secretary-General to submit to the Assembly, during its seventy-third session, an interim report further elaborating on his recommendations and options, including those on financing for United Nations peacebuilding activities. The Council also took note of the decision of the Assembly to request the Secretary-General to submit to the Assembly, during its seventy-fourth session, a detailed report in connection with the next comprehensive review of the United Nations peacebuilding architecture.<sup>132</sup>

<sup>130</sup> See resolution 2448 (2018), para. 54, in relation to the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic; resolution 2423 (2018), para. 67, in relation to the United Nations Multidimensional Integrated Stabilization Mission in Mali; and resolution 2409 (2018), para. 54, in relation to the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo.

<sup>131</sup> Resolution 2410 (2018), tenth preambular paragraph.

<sup>132</sup> Resolution 2413 (2018), paras. 2, 3 and 4. Furthermore, in a presidential statement issued on 18 December 2018, the Council recalled its resolution 2413 (2018), in which it, inter alia, took note of the General Assembly decision, as contained in Assembly resolution 72/276, paragraph 2, to invite the relevant United Nations bodies and organs, including the Peacebuilding Commission, to further advance, explore and consider the implementation, as appropriate, of the recommendations and options contained in the report of the Secretary-General, in accordance with the established procedures, during the seventy-third session of the Assembly (S/PRST/2018/20, third paragraph).

<sup>126</sup> S/PV.8395, pp. 4–5. The meeting is also the subject of case 7, on the relationship between the Security Council and the Economic and Social Council.

<sup>127</sup> A/ES-10/PV.38.

<sup>128</sup> See the letter dated 8 June 2018 from the representatives of Algeria and Turkey to the President of the General Assembly (A/ES-10/786).

<sup>129</sup> See S/PV.8274, pp. 3–4. For further details, see part I, sect. 24, “The situation in the Middle East, including the Palestinian question”.

With regard to youth and peace and security, in a resolution adopted in follow-up to a debate held on the topic on 23 April 2018,<sup>133</sup> the Council defined the term

<sup>133</sup> S/PV.8241. For further details, see part I. sect. 37, “Maintenance of international peace and security”.

“youth” as persons between the ages of 18 and 29 and further noted the variations in the definition of the term that might exist, including the definition of youth in General Assembly resolutions 50/81 and 56/117.<sup>134</sup>

<sup>134</sup> Resolution 2419 (2018), sixth preambular paragraph.

## II. Relations with the Economic and Social Council

### Article 65

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

### Note

Section II concerns the relationship between the Security Council and the Economic and Social Council, with a particular focus on the practice of the Security Council in relation to Article 65 of the Charter. It covers the deliberations of the Security Council concerning relations with the Economic and Social Council, including the participation of the President of the Economic and Social Council in a meeting of the Security Council held in November 2018. The Security Council did not address any requests to the Economic and Social Council for information or assistance, nor did it explicitly refer to Article 65 of the Charter in any outcome documents. The Security Council did not include any references to its relations with the Economic and Social Council in its communications.

### Discussions concerning relations with the Economic and Social Council

During the period under review, the President of the Economic and Social Council briefed the Council once, at an open debate held in November, under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Strengthening multilateralism and the role of the United Nations”, which is one of the subjects of case 7. In the previous month, the President of the Security Council had participated in a dialogue with the Presidents of the General Assembly and the Economic and Social Council on the theme “Renewing commitment to multilateralism”.

Several references were made in 2018 to the relations between the Security Council and the Economic and Social Council in the deliberations of the Security Council. The key discussions in this regard, including the only explicit reference to

Article 65, were held in the context of thematic debates under the item entitled “Maintenance of international peace and security” and during an open debate on the Security Council’s working methods, as featured in cases 7 and 8, respectively.

### Case 7 Maintenance of international peace and security

In 2018, during thematic debates held under the item entitled “Maintenance of international peace and security”, the Security Council discussed the division of labour among the principal organs of the United Nations in terms of addressing the adverse effects of climate change and the role that cooperation among the Security Council, the Economic and Social Council and the General Assembly could play in strengthening multilateralism.

At its 8307th meeting, held on 11 July 2018, the Council held a high-level open debate under the sub-item entitled “Understanding and addressing climate-related security risks”, organized by Sweden, which held the presidency for the month.<sup>135</sup> During the meeting, the representative of Ethiopia, echoed by the representative of Maldives (speaking on behalf of the Alliance of Small Island States), affirmed that the Economic and Social Council, along with the General Assembly and its relevant subsidiary bodies and the relevant intergovernmental frameworks, should continue to play the primary role in addressing the root causes of climate change and its adverse effects. This notwithstanding, both representatives concurred that, when the impacts of climate change posed a threat to international peace and security or to the survival of a country, the Security Council had a role to play and should take appropriate action within its mandate.<sup>136</sup> The representative of the Sudan, speaking on behalf of the Group of Arab States, indicated that, while the Group of Arab States recognized the Security Council’s primary responsibility for the maintenance of international peace

<sup>135</sup> A summary of the debate was circulated after the meeting in a communication from the representative of Sweden (S/2018/749).

<sup>136</sup> S/PV.8307, p. 19 (Ethiopia) and p. 26 (Maldives).



and security, it was important to “not overlook the role of the General Assembly and the Economic and Social Council” in addressing the impact of climate change “so as to avoid duplication and overlap” in the role of the different organs and without prejudice to their complementary mandates.<sup>137</sup>

At its 8395th meeting, held on 9 November 2018 under the sub-item entitled “Strengthening multilateralism and the role of the United Nations”,<sup>138</sup> the Security Council held an open debate, during which the President of the Economic and Social Council, the President of the International Court of Justice and the Permanent Representative of Qatar participated, the latter speaking on behalf of the President of the General Assembly. During her intervention, the President of the Economic and Social Council suggested that members of the Security Council should consider whether the use of Article 65 of the Charter, relating to the exchange of information between the two councils, “could be a way to strengthen the dialogue between the two councils”.<sup>139</sup> The representative of Hungary emphasized that stronger cooperation among the General Assembly, the Security Council and the Economic and Social Council could play “a truly important role” in strengthening multilateralism.<sup>140</sup> The representative of the Holy See made reference to the dialogue between the Presidents of the General Assembly, the Economic and Social Council and the Security Council as an important step towards renewing the commitment of the United Nations to multilateralism.<sup>141</sup> The representative of Ecuador also mentioned the dialogue and noted that the meeting had been an opportunity to consider the fundamental role of multilateralism in dealing with urgent challenges.<sup>142</sup>

#### **Case 8 Implementation of the note by the President of the Security Council (S/2017/507)**

At its 8175th meeting, held on 6 February 2018 under the item entitled “Implementation of the note by the President of the Security Council (S/2017/507)”, the Council held an open debate on its working methods organized by Kuwait, which held the presidency of the Council for the month.<sup>143</sup> During the

meeting, the Security Council discussed, inter alia, its relationship with the Economic and Social Council.

Addressing the matter of the mandates of different United Nations organs, the representative of the Russian Federation expressed his country’s “serious reservations” about considering thematic subjects in the Security Council, especially those that came under the remit of the General Assembly, the Economic and Social Council or other United Nations bodies, and added that such practice violated the established division of labour and distracted the Council from its “priority tasks”.<sup>144</sup> The representative of China similarly stated that, when deliberating thematic issues, the Security Council needed to coordinate with the General Assembly, the Economic and Social Council and other United Nations bodies so that each could play its respective role and to avoid duplication.<sup>145</sup> The representative of the Islamic Republic of Iran called upon the Security Council to “cease its ongoing attempts to shift issues on the agenda of the General Assembly or the Economic and Social Council over to the Security Council”.<sup>146</sup>

On the interaction between the Security Council and the Economic and Social Council, the representative of Portugal underscored that consultations between the Security Council and the Peacebuilding Commission and the Economic and Social Council increased “the power of synergies” and strengthened “a more coordinated United Nations response in conflict prevention, peacebuilding and sustaining peace”. He encouraged the Security Council to regularly invite the President of the Economic and Social Council as a briefer or a participant in informal dialogues.<sup>147</sup> The representative of Indonesia noted that improved collaboration with the General Assembly and the Economic and Social Council would enable the Security Council to develop more comprehensive solutions to increasingly complex and multidimensional conflicts.<sup>148</sup> The representative of Maldives added that regular meetings between the presidents of the Security Council, the General Assembly and the Economic and Social Council would “go a long way in enhancing coordination” on the work of the three organs.<sup>149</sup> The representative of Bahrain also highlighted the importance of stepping up coordination, cooperation and interaction among the Security Council, the General Assembly and the Economic and Social Council.<sup>150</sup>

<sup>137</sup> *Ibid.*, p. 28.

<sup>138</sup> The Council had before it a concept note annexed to a letter dated 1 November 2018 from the representative of China to the Secretary-General (S/2018/982).

<sup>139</sup> S/PV.8395, p. 6.

<sup>140</sup> *Ibid.*, p. 53.

<sup>141</sup> *Ibid.*, p. 57.

<sup>142</sup> *Ibid.*, p. 81.

<sup>143</sup> The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>144</sup> S/PV.8175, p. 8.

<sup>145</sup> *Ibid.*, p. 23.

<sup>146</sup> *Ibid.*, p. 31.

<sup>147</sup> *Ibid.*, p. 37.

<sup>148</sup> *Ibid.*, p. 48.

<sup>149</sup> *Ibid.*, p. 56.

<sup>150</sup> *Ibid.*, p. 60.

### III. Relations with the International Court of Justice

#### Article 94

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

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

#### Article 96

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

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

#### Note

Section III concerns the relationship between the Council and the International Court of Justice. In accordance with Article 94 of the Charter, the Council may make recommendations or decide upon measures to be taken to give effect to the judgment rendered by the Court if a party to a case fails to perform its obligations under that judgment. Pursuant to Article 96, the Council may also request the Court to give an advisory opinion on any legal question. In addition, pursuant to Article 41 of the Statute of the International Court of Justice, notice of any provisional measures to be taken to preserve the rights of parties may be given by the Court to the parties and to the Council.

During the period under review, the Council did not make recommendations or decide on measures with regard to the judgments rendered by the Court, nor did it request the Court to give an advisory opinion on any legal question. In line with the practice of the Council, the President of the International Court of Justice was invited to participate in one private meeting of the Council, on 24 October 2018, under the item entitled “Briefing by the President of the International Court of Justice”.<sup>151</sup> In addition, the President of the Court and,

on his behalf, a Senior Judge and President Emeritus of the Court each participated in open debates of the Council held under the item entitled “Maintenance of international peace and security”.<sup>152</sup> Elections of members of the Court held concurrently by the Council and the General Assembly during the period under review are covered in section I.E above. During the review period, no explicit references to Articles 94 or 96 of the Charter were made in decisions of the Council. Subsection A concerns the deliberations of the Council concerning relations with the Court and subsection B covers communications concerning relations with the Court.

#### A. Discussions concerning relations with the International Court of Justice

During the period under review, reference was made in the deliberations of the Council to the role of the International Court of Justice in connection with the peaceful settlement of disputes and to the relationship between the Council and the Court. At the 8175th meeting, held on 6 February 2018 under the item entitled “Implementation of the note by the President of the Security Council (S/2017/507)” concerning the Council’s working methods,<sup>153</sup> the representative of Brazil indicated that there was no compelling reason for the annual briefing by the President of the Court to be held in private.<sup>154</sup> At the 8185th meeting, held on 21 February 2018 under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Purposes and principles of the Charter of the United Nations in the maintenance of international peace and security”, the Secretary-General encouraged Member States to accept the compulsory jurisdiction of the Court and to make greater use of the Court to help to settle and avoid the escalation of their disputes.<sup>155</sup> The representative of Sweden stated that the Council should “more actively consider the possibility of recommending referrals to the Court”.<sup>156</sup> The representative of France underscored “the essential role” of the Court in the maintenance of peace and international security.<sup>157</sup>

<sup>152</sup> S/PV.8395 and S/PV.8262, respectively.

<sup>153</sup> The Council had before it a concept note annexed to a letter dated 24 January 2018 from the representative of Kuwait to the Secretary-General (S/2018/66), and a summary of the debate was circulated after the meeting in a communication from the representative of Kuwait (S/2018/399).

<sup>154</sup> S/PV.8175, p. 25.

<sup>155</sup> S/PV.8185, p. 3.

<sup>156</sup> Ibid., p. 21.

<sup>157</sup> Ibid., pp. 24–25.

<sup>151</sup> S/PV.8380.

Similarly, the representative of the Plurinational State of Bolivia praised the Court's "probity and independence" as "indispensable for guaranteeing peace and security".<sup>158</sup> The representative of the Netherlands indicated that the Court could achieve its objectives only when all Member States accepted its compulsory jurisdiction, and exhorted all Member States, and especially the permanent members of the Council, to do so.<sup>159</sup>

During the 8334th meeting, held on 29 August 2018 under the item entitled "Maintenance of international peace and security", the representative of Pakistan recalled that, while the Council could refer disputes to the Court for an advisory opinion, it should also use its mandatory enforcement authority under Chapter VII of the Charter to refer a dispute to the Court so that the determination of the Court be binding on the parties, irrespective of whether or not they had accepted the jurisdiction of the Court.<sup>160</sup>

In 2018, there were eight explicit references to Article 94 and three to Article 96 of the Charter during the deliberations of the Council. At the 8395th meeting, held on 9 November 2018 under the item entitled "Maintenance of international peace and security" and the sub-item entitled "Strengthening multilateralism and the role of the United Nations", the President of the International Court of Justice indicated that the Court relied on multilateral institutions to ensure compliance with its decisions, and pointed out that such compliance could be achieved by the Council under Article 94.<sup>161</sup> The representative of Peru stressed the need to promote "a more systematic interaction" between the Council and the International Court of Justice and the International Criminal Court.<sup>162</sup> The representative of the Bolivarian Republic of Venezuela, speaking on behalf of the Non-Aligned Movement, urged the Council to make greater use of the International Court of Justice, an organ which had played "an important role" in promoting the peaceful settlement of disputes and as a source of advisory opinions and interpretations on the relevant norms of international law and on controversial issues.<sup>163</sup> The other seven references to Article 94 and the three references to Article 96 were invoked during an open debate of the Council held under the item entitled "Maintenance of international peace and security", which is the subject of case 9.

### Case 9 Maintenance of international peace and security

On 17 May 2018, at the initiative of Poland, which held the presidency for the month, the Council held an open debate under the item entitled "Maintenance of international peace and security" and the sub-item entitled "Upholding international law within the context of the maintenance of international peace and security".<sup>164</sup>

The Chef de Cabinet of the Secretary-General, speaking on his behalf, noted that the Council could play a role in ensuring that the Court's judgments were properly observed in instances in which States had agreed to use the Court. She further called upon Member States to consider accepting the compulsory jurisdiction of the Court.<sup>165</sup> A Senior Judge and President Emeritus of the Court, speaking on behalf of the President of the Court, emphasized that the Court could actively contribute to the maintenance of peace and security in parallel with the Council, adding that the constitutional framework of the United Nations envisaged an "organic and synergetic relationship" between the two organs "with the potential of peace being reinforced by combining political and judicial approaches to finding solutions".<sup>166</sup> He referred to Article 94 of the Charter four times and Article 96 twice as part of the constitutional basis for cooperation and coordination between the Court and the Council in ensuring that the decisions of the Court be given effect, and noted that the advisory function of the Court could be a very useful tool in the maintenance of international peace and security by "elucidating the relevant and legal questions" relating to situations on the agenda of the Council.<sup>167</sup> The Minister of State for Africa of the United Kingdom and the representative of Greece underscored the important contributions that the Court had made and could make in the maintenance of international peace and security.<sup>168</sup> The representatives of Slovakia, Argentina and Norway emphasized the important role of the Court in the peaceful settlement of disputes.<sup>169</sup> The representative

<sup>164</sup> The Council had before it a concept noted annexed to a letter dated 3 May 2018 from the representative of Poland to the Secretary-General (S/2018/417/Rev.1), and a summary of the debate was circulated after the meeting in a communication from the representative of Poland (S/2018/560).

<sup>165</sup> S/PV.8262, p. 3.

<sup>166</sup> Ibid., p. 4.

<sup>167</sup> Ibid., pp. 5–7.

<sup>168</sup> Ibid., p. 19 (United Kingdom) and p. 42 (Greece).

<sup>169</sup> Ibid., p. 40 (Slovakia), p. 65 (Argentina) and p. 66 (Norway).

<sup>158</sup> Ibid., p. 29.

<sup>159</sup> Ibid., pp. 26–27.

<sup>160</sup> S/PV.8334, pp. 28–29.

<sup>161</sup> S/PV.8395, p. 7.

<sup>162</sup> Ibid., p. 27.

<sup>163</sup> Ibid., p. 37.

of Japan further indicated that the Council and the Court could work “complementarily and in a mutually reinforcing manner” in the peaceful settlement of disputes.<sup>170</sup> The representative of Uruguay added that the Council should strengthen its relations with the Court for the peaceful settlement of disputes.<sup>171</sup> The representative of Australia called upon the Council to continue to encourage States to settle disputes by peaceful means, including through the use of the Court.<sup>172</sup> The representative of Germany stated that the Court could and should play a more important role in the peaceful settlement of disputes, emphasizing that Member States had to respect and implement the Court’s decisions.<sup>173</sup> The representative of the Bolivarian Republic of Venezuela, speaking on behalf of the Non-Aligned Movement, commended the role of the Court in fostering the pacific settlement of disputes under the relevant provisions of the Charter, including Article 94, and urged the Council to consider having its decisions reviewed by the Court given the need to ensure compliance with the Charter and international law.<sup>174</sup> The representative of Peru stated that it would be “appropriate to request more frequent advisory opinions of the Court, in accordance with Article 96 of the Charter”.<sup>175</sup> Many speakers echoed Peru in calling for the Council to make use of the tools provided by the Court, particularly by requesting its advisory opinions.<sup>176</sup> The representative of South Africa indicated that, by requesting the Court’s advisory opinions “when confronted with complex legal questions”, the Council could play a role in the promotion of the rule of law, and emphasized that the Council had an important role to play in the enforcement of decisions of the Court, in accordance with Article 94 of the Charter.<sup>177</sup> The representative of Rwanda also indicated that the Council should promote the rule of law through recourse to the Court.<sup>178</sup> The representative of Kenya, recalling that the Council had only referred parties to a dispute to the Court once, in 1947, stated that the Council should explore how it

could objectively use such a platform given “the increasing inter-State tensions”.<sup>179</sup> The representative of Djibouti expressed his disapproval of what his country viewed as the Council’s reluctance to encourage States to submit their disputes to the Court for arbitration.<sup>180</sup> The representative of France indicated that the Court had a “major role to play in providing the necessary clarifications for a harmonious interpretation of international law”.<sup>181</sup> The representative of Pakistan stated that the Council should have “greater recourse to the International Court of Justice on legal matters”.<sup>182</sup> The representative of Sri Lanka indicated that the key organs of the United Nations, including the Council and the Court, could make a collective contribution to the strengthening of international peace and security in dealing with disputes of complex political and legal dimensions.<sup>183</sup> The representative of Mexico recalled that the Council had the ability to carry out the judgments of the Court in cases of non-compliance.<sup>184</sup> The representative of Lebanon also stressed that the Council should use the authority vested in it under Article 94 of the Charter to “give effect to decisions by the Court”.<sup>185</sup> Several speakers also encouraged all Member States that had not yet done so to recognize the jurisdiction of the Court.<sup>186</sup>

## B. Communications concerning relations with the International Court of Justice

During the period under review, the Council continued to exchange letters with the Secretary-General and to receive his reports on the progress of the Cameroon-Nigeria Mixed Commission established to facilitate the implementation of the ruling of the International Court of Justice of 10 October 2002 on the land and maritime boundary dispute between the two countries.<sup>187</sup>

<sup>170</sup> Ibid., p. 43.

<sup>171</sup> Ibid., p. 68.

<sup>172</sup> Ibid., p. 59.

<sup>173</sup> Ibid., p. 63.

<sup>174</sup> Ibid., p. 82.

<sup>175</sup> Ibid., p. 19.

<sup>176</sup> Ibid., p. 24 (Plurinational State of Bolivia), p. 39 (Egypt), p. 47 (Mexico), p. 57 (South Africa), p. 64 (Jamaica), p. 73 (Djibouti), p. 82 (Bolivarian Republic of Venezuela, on behalf of the Non-Aligned Movement) and p. 87 (Ghana).

<sup>177</sup> Ibid., p. 57.

<sup>178</sup> Ibid., p. 88.

<sup>179</sup> Ibid., p. 70.

<sup>180</sup> Ibid., p. 73.

<sup>181</sup> Ibid., p. 29.

<sup>182</sup> Ibid., p. 48.

<sup>183</sup> Ibid., p. 74.

<sup>184</sup> Ibid., p. 47.

<sup>185</sup> Ibid., p. 76.

<sup>186</sup> Ibid., p. 25 (Côte d’Ivoire), p. 40 (Slovakia), p. 43 (Japan), pp. 52–53 (Italy), p. 71 (Austria) and p. 74 (Djibouti).

<sup>187</sup> See the following exchange of letters: [S/2018/1130](#) and [S/2018/1131](#). See also the following reports: [S/2018/649](#) and [S/2018/1175](#).