



Repertoire of the Practice of the Security Council

20th Supplement

2016-2017

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Part VI

Consideration of the provisions of Chapter VI of the Charter

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Introductory note

Part VI of the *Repertoire* covers the practice of the Security Council with regard to the peaceful settlement of disputes within the framework of Chapter VI (Articles 33 to 38) and Articles 11 and 99 of the Charter of the United Nations. It is divided into four main sections.

Section I illustrates how States brought disputes or situations to the attention of the Security Council during the period under review, pursuant to Article 35 of the Charter. It also surveys the practice of the General Assembly and the Secretary-General, under Articles 11(3) and 99 of the Charter, respectively, in drawing the attention of the Council to situations which are likely to threaten the maintenance of international peace and security. Section II describes investigative and fact-finding activities performed by the Council and other bodies that may be deemed to fall under the scope of Article 34, including Security Council missions. Section III provides an overview of the decisions of the Council taken with regard to the pacific settlement of disputes. It specifically illustrates recommendations of the Council to parties to a conflict and its support for the efforts of the Secretary-General in the peaceful settlement of disputes. Section IV reflects constitutional discussions on the interpretation or application of the provisions of Chapter VI and Article 99 of the Charter.

The practice of the Council with respect to the pacific settlement of disputes is not discussed in an exhaustive manner in part VI. It does not include actions with regard to the pacific settlement of disputes in the context of the United Nations field missions authorized under Chapter VII of the Charter, which are covered in the relevant sections of parts VII and X. Instead, the part focuses on selected materials that highlight the interpretation and application of the provisions of Chapter VI in the decisions and deliberations of the Council during the period under review. Joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the pacific settlement of disputes during the period under review are covered in part VIII.

During 2016 and 2017, as described in section I, only one new situation or dispute was brought to the attention of the Council in relation to the peace process in Colombia whereas most communications related to matters already on the agenda of the Council.

As described in section II, the Council dispatched ten missions to Africa and the Americas, visiting destinations in Angola, Burkina Faso, Burundi, Cameroon, Chad, Colombia, the Democratic Republic of the Congo, Egypt, Ethiopia, Guinea-Bissau, Haiti, Kenya, Mali, Mauritania, the Niger, Nigeria, Senegal, Somalia and South Sudan. The Council also requested and supported investigations by the Secretary-General concerning possible violations of international humanitarian law and human rights law in the Central African Republic and Mali, the use of chemical weapons against civilians in the Syrian Arab Republic and war crimes, crimes against humanity or genocide committed by the Islamic State in Iraq and the Levant (“ISIL”) (Da’esh) in Iraq.

As described in section III, in its decisions during the 2016-2017 biennium, the Council highlighted the importance of sustaining peace, preventing conflict and addressing its root causes, as well as utilizing the tools at its disposal to do so, including peacekeeping, peacebuilding and the good offices and mediation role of the Secretary-General. In the context of primarily intra-State conflicts, the Council called on the parties to cease hostilities, implement inclusive national reconciliation processes, fully implement existing peace agreements and to engage in dialogue in order to resolve political and institutional crises. In that context, the Council requested the Secretary-General to provide good offices and mediation support through his special representatives and envoys and in coordination with regional and sub-regional organizations.

As described in section IV, during the period under review, the discussions in the Council reflected the importance attributed by Council members to the peaceful settlement of disputes. Council members and other speakers further highlighted the Council’s investigatory tools under the Charter, the need for closer cooperation with regional and sub-regional organizations in the peaceful settlement of disputes and the crucial role of the Secretary-General in drawing its attention to deteriorating situations or disputes and providing good offices support for the prevention and resolution of conflicts. Council members also discussed the distinction between Chapter VI and Chapter VII in the context of peacekeeping operations and the power of Member States to bring a dispute or situation to the attention of the Council.

I. Referral of disputes or situations to the Security Council

Article 11

...

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

Article 35

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

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

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

Article 99

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

Note

Within the framework of the Charter of the United Nations, Articles 35 (1) and (2) are generally regarded as the basis on which Member States and States which are not members of the United Nations may refer disputes to the Security Council. Under Articles 11 (3) and 99, the General Assembly and the Secretary-General, respectively, may call the attention of the

Council to situations which are likely to threaten the maintenance of international peace and security. The practice of the Council in this regard is described below in three subsections.

Subsection A provides an overview of the referrals of disputes or situations by States to the Security Council pursuant to Article 35. Subsections B and C deal with referrals to the Council, by the Secretary-General and the General Assembly, respectively, of matters which were likely to endanger international peace and security.

During the period under consideration, with the exception of the peace process in Colombia, Member States did not refer any new situation to the Council. No State which was not a Member of the United Nations submitted any dispute or situation to the attention of the Council. Neither the General Assembly nor the Secretary-General explicitly referred matters likely to endanger international peace and security to the Council.

A. Referrals by States

During the period under review, certain situations were referred to the Security Council pursuant to Article 35 (1) by individual Member States and groups of affected or concerned Member States as further described below. Article 35 was expressly mentioned in five communications addressed to the President of the Council, namely three from the Democratic People's Republic of Korea² and two from Eritrea.³ No State which was not a member of the United Nations submitted any dispute or situation to the attention of the Council under Article 35 (2) during the biennium.

Communications in response to which the Council convened meetings, either in public or private, are featured in table 1 below. As in previous Supplements and owing to the large volume of communications received by the Council, communications from States that merely conveyed information about a dispute or situation and did not contain a request for a Council meeting or other specific Council action have not been included.

During 2016 and 2017, in their communications, Member States brought various matters to the attention of the Council. Only one communication referred to a matter of which the

² [S/2016/251](#), [S/2016/734*](#) and [S/2017/882](#).

³ [S/2016/568](#) and [S/2016/569](#).

Council was not previously seized. By identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the Secretary-General and the President of the Security Council, the President of Colombia reported on the progress made in the peace negotiations between the Government of Colombia and the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP), on the basis of the General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace, signed on 26 August 2012 in Havana.⁴ In the letter, the President of Colombia noted that an agreement had been achieved on fundamental issues concerning the end of the conflict, including the ceasefire and definitive cessation of hostilities, while other issues remained pending.⁵

The nature of the matters brought to the attention of the Council in the communications submitted by Member States during the period under review was often framed beyond the scope of Chapter VI of the Charter relating to the pacific settlement of disputes. For instance, by its letter dated 2 February 2016, the Syrian Arab Republic strongly condemned “the repeated crimes and aggression of Turkey against the Syrian people and the territorial integrity of the Syrian Arab Republic”.⁶ In another instance, by its letter dated 28 October 2016, Israel cited the continuing “aggression” and “gross violations” of resolution [1701 \(2006\)](#) by Hizbullah against Israel through continuing illicit military activities south of the Litani River.⁷ By a letter dated 20 October 2017, the Democratic People’s Republic of Korea described the joint military exercise on the Korean peninsula by the United States and the Republic of Korea as a “clear threat to international peace and security”.⁸ The Council, however, did not determine the existence of any new threat to the peace, breach of the peace or act of aggression in connection with these communications.⁹

In most cases, the type of action requested by Member States was for the Council to convene a meeting to consider the disputes or situation in question.¹⁰ However, in some

⁴ [S/2016/53](#).

⁵ *Ibid.* For further background, see part I, sect. 17.

⁶ [S/2016/101](#).

⁷ [S/2016/917](#).

⁸ [S/2017/882](#).

⁹ For further information about the determination of a threat to the peace, breach of the peace or act of aggression in accordance with Article 39 of the Charter, see part VII, sect. I.

¹⁰ For more information on requests by Member States to convene a meeting of the Council, see part II, sect. I.A1.

instances, Member States requested more concrete or bolder action from the Council. By the identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the Secretary-General and the President of the Security Council, the President of Colombia requested the participation of the United Nations, through a political mission made up of observers from member countries of the Community of Latin and American Caribbean States, as the international component of the tripartite monitoring and verification mechanism established under the peace agreement.¹¹ By a letter dated 15 June 2017 from the Permanent Representative of Djibouti, the Minister for Foreign Affairs and International Cooperation described the withdrawal of Qatar from the mediation process in the territorial dispute between Djibouti and Eritrea as a significant threat to peace and security in the region and, recalling the Council's previous resolutions on the matter, requested it "to instruct Eritrea to honour its commitments".¹² In another instance, by a letter dated 22 July 2016, referring to the alleged use of chemical weapons in Idlib, the Permanent Representative of Turkey looked forward to the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism's swift finalization of its investigation and expected the Council to impose measures under Chapter VII of the Charter of the United Nations against the Syrian Arab Republic in the face of its non-compliance with Security Council resolution [2118 \(2013\)](#) and its violations of international law and its commitments thereunder.¹³

Table 1 below features those communications bringing disputes or situations to the attention of the Council which led to the holding of a meeting by the Council, regardless of whether they made explicit reference to Article 35 of the Charter or rule 2 of the Provisional rules of procedure.

¹¹ [S/2016/53](#).

¹² [S/2017/506](#).

¹³ [S/2016/654](#).

Table 1
Communications bringing a dispute or situation to the attention of the Security Council, 2016-2017

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting record and date</i>
Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)		
Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)	To establish a special political mission as the international component of the tripartite mechanism for monitoring and verification of the Agreement on the ceasefire and definitive and bilateral cessation of hostilities and the abandonment of arms signed between the Government of Colombia and the <i>Fuerzas Armadas Revolucionarias de Colombia</i>	S/PV.7609 25 January 2016
The situation in the Democratic People's Republic of Korea		
Letter dated 1 December 2016 from the Permanent Representatives of France, Japan, Malaysia, New Zealand, Spain, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay to the United Nations addressed to the President of the Security Council (S/2016/1034)	To hold a meeting on the situation in the Democratic People's Republic of Korea pursuant to rule 2 of the provisional rules of procedure	S/PV.7830 9 December 2016
Non-proliferation/Democratic People's Republic of Korea		
Letter dated 1 December 2017 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General (S/2017/1038)	To exert maximum pressure on the Democratic People's Republic of Korea to change its course of action towards the denuclearization of the Korean peninsula and the abandonment of all other existing weapons of mass destruction and ballistic missile programmes, in a complete, verifiable and irreversible manner	S/PV.8137 15 December 2017
The situation in the Democratic People's Republic of Korea		
Letter dated 1 December 2017 from the Permanent Representatives of France, Italy, Japan, Senegal, Sweden, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay to the United Nations addressed to the President of the Security Council (S/2017/1006)	To hold a meeting on the situation in the Democratic People's Republic of Korea pursuant to rule 2 of the Provisional rules of procedure	S/PV.8130 11 December 2017

^a Only communications that resulted in a formal meeting of the Security Council are included in the table.

B. Referrals by the Secretary-General

Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. During the period under review, the Secretary-General did not invoke Article 99, directly or by implication. Nevertheless, he continued drawing the attention of the Council to situations, already on the Council's agenda, that were deteriorating and requested it to take appropriate action. Like Article 35, Article 99 does not specify the means by which the Secretary-General may bring to the attention of the Council any matter that may threaten the maintenance of international peace and security. During 2016 and 2017, Member States made reference to horizon scanning and situational awareness meetings in their communications to the Council in connection with the Council's working methods.¹⁴ Discussions of relevance for Article 99 of the Charter are featured in cases 9 and 10 below.

In a presidential statement issued at the Council's 8020th meeting held on 9 August 2017, under the item entitled "Maintenance of international peace and security", the Council welcomed the Secretary-General's letters on the risk of famine in Yemen, South Sudan, Somalia, and northeast Nigeria of 21 February and 27 June 2017.¹⁵ In the statement, the Council requested the Secretary-General to provide early warning when a conflict having devastating consequences and hindering an effective humanitarian response risked leading to an outbreak of famine.¹⁶

In a letter dated 2 September 2017, the Secretary-General shared his deep concern about the security, humanitarian and human rights situation in Rakhine State in Myanmar in keeping with his "responsibility to engage in preventing the outbreak or escalation of conflict". In the same letter he noted that the situation risked degenerating into a "humanitarian catastrophe with implications for peace and security that could continue to expand beyond the borders of Myanmar".¹⁷ The Secretary-General further underlined the importance for the international community to send a strong message to support to end the vicious cycle of violence and to press

¹⁴ See [S/2016/506](#), p. 11, [S/2015/105](#), p. 4 and [S/2017/468](#), p. 20.

¹⁵ [S/PRST/2017/14](#), twelfth paragraph.

¹⁶ *Ibid.*

¹⁷ [S/2017/753](#).

for restraint and calm.¹⁸ During its 8060th meeting held on 28 September 2017, the Council discussed the item entitled “The situation in Myanmar” in a public meeting for the first time since 13 July 2009.¹⁹

C. Referrals by the General Assembly

Under Article 11 (3) of the Charter, the General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security. During the period under review, the General Assembly did not refer any such situations to the Security Council under that Article.²⁰

¹⁸ Ibid.

¹⁹ [S/PV.8060](#). See for further details, part I, sect. [S/PV.8060](#). For more information, see part I, sect. 20, “The situation in Myanmar”.

²⁰ For more information on the relations between the Security Council and the General Assembly, see part IV, sect. I.

II. Investigation of disputes and fact-finding

Article 34

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

Note

Article 34 of the Charter of the United Nations provides that the Security Council may investigate any dispute or any situation which might lead to international friction or give rise to a dispute. On this basis, the Council may determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security. Article 34 does not prevent the Secretary-General or other organs from performing investigative functions nor does it limit the Council's general competence to obtain knowledge of the relevant facts of any dispute or situation by dispatching a fact-finding or investigative mission.

Section II provides an overview of the practice of the Security Council relating to fact-finding and investigation in accordance with Article 34 of the Charter in three subsections: A. Security Council missions; B. Investigative and fact-finding functions of the Secretary-General; and C. Other instances of investigative functions acknowledged by the Security Council.

During the reporting period, the Council significantly increased the number of missions dispatched to conflict or post-conflict areas, with ten such visits taking place in 2016 and 2017 to support peace processes and to assess the situation on the ground and the status of implementation of its resolutions. The Council acknowledged the investigative functions of the Secretary-General by (i) calling for the implementation of the report of the International Commission of Inquiry on the Central African Republic, (ii) tasking the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) to undertake a mapping of violations of international humanitarian law and abuses of human rights committed in the country since 2003, (iii) requesting the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) to support the establishment of the international commission of inquiry on Mali; (iv) renewing the mandate of the Joint Investigative

Mechanism of the Organization for the Prohibition of Chemical Weapons (OPCW) and the United Nations twice until 17 November 2017, and (v) requesting the Secretary-General to establish an investigative team to support domestic efforts in Iraq to hold ISIL (Da’esh) accountable for acts that may amount to war crimes, crimes against humanity and genocide. In considering items on its agenda, the Council also continued to acknowledge and rely upon investigations conducted by organs of the United Nations other than the Secretary-General, including the work of the Human Rights Council and the Office of the High Commissioner for Human Rights in Burundi, Côte d’Ivoire, the Democratic Republic of the Congo and Myanmar and the OPCW Fact-Finding Mission in Syria.

A. Security Council missions

During the period under review, the Security Council dispatched ten missions consisting of all 15 Council members, eight of which were deployed to Africa, and the remaining two to Latin America and the Caribbean. None of the Council missions in the period under review were explicitly charged with investigative tasks. The most common objectives of these missions included (i) calling for the implementation of peace agreements and inclusive political transition and national reconciliation processes, (ii) assessing the security and humanitarian situation in the countries concerned, (iii) drawing attention to the protection of civilians and human rights situation, (iv) calling on host governments and relevant parties to fully cooperate with peacekeeping operations on the ground to ensure the full implementation of their mandates, (v) expressing or reaffirming support for regional and sub-regional organisations for the prevention and resolution of conflict and countering the spread of terrorism and violent extremism. For more information on the Security Council missions dispatched during 2016 and 2017, including their duration and composition and the related documents, see table 2 below.

Table 2
Security Council missions, 2016-2017

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Agenda item</i>
21 to 23 January 2016	Africa (Ethiopia and Burundi)	Angola, China, Egypt (co-leader), France (co-leader), Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United	S/2016/55 20 January 2016	No report available	S/PV.7615 29 January 2016	Security Council mission

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<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Agenda item</i>
		Kingdom, United States, Uruguay and Venezuela				
3 to 9 March 2016	Africa (Guinea-Bissau, Mali and Senegal)	Angola (co-leader to Guinea-Bissau and lead to Senegal), China, Egypt, France (co-leader to Mali), Japan, Malaysia, New Zealand, Russian Federation, Senegal (co-leader only to Mali and Guinea-Bissau), Spain, Ukraine, United Kingdom, United States, Uruguay and Venezuela	S/2016/215 7 March 2016	S/2016/511 11 May 2016	S/PV.7647 16 March 2016	Security Council mission
17 to 22 May 2016	Africa (Kenya, Somalia and Egypt)	Angola, China, Egypt (lead for Egypt and Kenya and co-leader for Somalia), France, Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United Kingdom (co-leader for Somalia), United States, Uruguay and Venezuela	S/2016/456 18 May 2016	No report available	S/PV.7696 25 May 2016	Security Council mission
2 to 5 September 2016	Africa (South Sudan and Ethiopia)	Angola, China, Egypt, France, Japan, Malaysia, New Zealand, Russian Federation, Senegal (co-leader), Spain, Ukraine, United Kingdom, United States (co-leader), Uruguay and Venezuela	S/2016/757 1 September 2016	No report available	No formal meeting took place	
10 to 14 November 2016	Africa (Democratic Republic of the Congo and Angola)	Angola (co-leader), China, Egypt, France (co-leader), Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United Kingdom, United States, Uruguay and Venezuela	S/2016/948 9 November 2016	No report available	S/PV.7819 23 November 2016	Security Council mission
1 to 7 March 2017	Africa (Cameroon, Chad, Niger and Nigeria)	Bolivia (Plurinational State of), China, Egypt, Ethiopia, France (co-leader), Italy, Japan, Kazakhstan, Russian Federation, Senegal (co-leader), Sweden, Ukraine, United Kingdom (co-leader), United States and Uruguay	S/2017/181 1 March 2017	S/2017/403 5 May 2017	S/PV.7894 9 March 2017	Security Council mission
3 to 5 May 2017	Latin America (Colombia)	Bolivia (Plurinational State of), China, Egypt, Ethiopia, France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom (co-leader), United States and Uruguay (co-leader)	S/2017/363 25 April 2017	No report available	S/PV.7941 16 May 2017	Security Council mission
22 to 24 June 2017	Haiti	Bolivia (Plurinational State of) (leader), China, Egypt, Ethiopia, France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom, United States	S/2017/511 15 June 2017	No report available	S/PV.7994 30 June 2017	Security Council mission

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<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Agenda item</i>
		and Uruguay				
6 to 8 September 2017	Africa (Ethiopia)	Bolivia (Plurinational State of), China, Egypt, Ethiopia (leader), France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom, United States and Uruguay	S/2017/757 5 September 2017	S/2017/100 2 30 November 2017	S/PV.8043 12 September 2017	Security Council mission
19 to 22 October 2017	Africa (Mali, Mauritania and Burkina Faso)	Bolivia (Plurinational State of), China, Egypt, Ethiopia (co- leader), France (co-leader), Italy (co-leader), Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom, United States and Uruguay	S/2017/871 16 October 2017	No report available	S/PV.8077 26 October 2017	Security Council mission

In addition, references to the utility of Security Council missions were made in the context of several open debates on the working methods of the Council. For example, during the Council’s 7703rd meeting, on 31 May 2016, under the item “Implementation of the note by the President of the Security Council ([S/2010/507](#))”, the representative of New Zealand described Council missions as a very valuable tool to advance peace and security objectives and stated that they could also assist the Council in meeting its conflict-prevention responsibilities.²¹ At the 7740th meeting, on 19 July 2016, held under the same item, the representative of Ukraine, while welcoming the initial steps taken in 2010 to introduce formal guidelines with respect to the use of field missions, expressed his country’s readiness to continue discussions within the Council to further develop and improve provisions on Council missions, including mission planning and decision-making regarding their dispatch, composition, reporting period and format and decision-making with respect to the outcome.²² The representative of the Republic of Korea suggested exploring how the field visits of the Peacebuilding Commission could better complement those of the Council.²³ During the Council’s 8038th meeting, on 30 August 2017, held under the same item, the representative of Japan took note of the importance of organizing joint consultative missions of the Security Council and the Peace and Security Council of the

²¹ [S/PV.7703](#), p. 14.

²² [S/PV.7740](#), p. 5.

²³ *Ibid.*, p. 42.

African Union to address conflict situations in Africa as reflected for the first time in the revised note of the President of the Security Council on the Council's working methods dated 30 August 2017.²⁴

B. Investigative and fact-finding functions of the Secretary-General

In its decisions during the period under review, the Security Council acknowledged the investigative or fact-finding functions of the Secretary-General in connection with seven items on its agenda. The relevant provisions of those decisions are set out in table 3 below.

In connection with the item entitled "The situation in the Central African Republic," the Council recalled the submission of the report of the International Commission of Inquiry established by resolution [2127 \(2013\)](#) and noted with concern its findings that the main parties to the conflict, including ex-Seleka, the anti-Balaka, and elements of the Central African Republic Armed Forces (FACA) who collaborated with armed groups, committed serious violations and abuses since 1 January 2013 that may amount to war crimes and crimes against humanity.²⁵ By resolution [2301 \(2016\)](#), acting under Chapter VII of the Charter, the Council tasked MINUSCA to undertake a mapping of violations of international humanitarian law and abuses of human rights committed in the Central African Republic since 2003 to inform efforts to fight impunity.²⁶ Upon the submission of the mapping report, by resolution [2387 \(2017\)](#), also acting under Chapter VII of the Charter, the Council took note of its content and called upon the authorities of the Central African Republic to follow-up on its recommendations.²⁷

In relation to the item entitled "The situation in Mali," by resolution [2295 \(2016\)](#), under Chapter VII of the Charter, the Council reiterated its request to MINUSMA to support the establishment of the international commission of inquiry, as provided under the Agreement on Peace and Reconciliation in Mali of 2015, in consultation with the parties.²⁸ By resolution [2364 \(2017\)](#), the Council noted the lack of progress in the creation and operationalization of the

²⁴ [S/PV.8038](#), p. 4. See also [S/2017/507](#), para. 122.

²⁵ Resolutions [2301 \(2016\)](#), tenth preambular paragraph and [2387 \(2017\)](#), eighth preambular paragraph.

²⁶ Resolution [2301 \(2016\)](#), para. 33(b)(i).

²⁷ Resolution [2387 \(2017\)](#), para. 26.

²⁸ Resolution [2295 \(2016\)](#), para. 19(a)(iii).

Commission of Inquiry and expressed concern that this delay risked creating a culture of impunity by allowing human rights abuses and violations to go unaddressed.²⁹

During the period under review, in connection with the item entitled, “The situation in the Middle East”, the Council renewed twice the mandate of the Joint Investigative Mechanism of the OPCW and the United Nations, which was established to identify individuals, entities, groups or governments responsible for the use of chemicals as weapons in the Syrian Arab Republic pursuant to resolution [2235 \(2015\)](#).³⁰ The Joint Investigative Mechanism issued a total of seven reports to the Council detailing the progress of its work.³¹ At the end of 2017, amid discussions about its performance and working methods, proposals to extend the mandate of the Joint Investigative Mechanism were not successful and its mandate expired on 17 November 2017.³² As described in table 3, the Council also referred to the work of the Joint Investigative Mechanism under the item entitled, “Non-proliferation of weapons of mass destruction”.³³ Case 1 below provides greater detail on the discussions relating to the work of the Joint Investigative Mechanism.

By resolution [2379 \(2017\)](#), the Council requested the Secretary-General to establish an Investigative Team, headed by a Special Adviser, to support domestic efforts in Iraq to hold ISIL (Da’esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide by the terrorist group.³⁴ By resolution [2388 \(2017\)](#), the Council invited the Secretary-General to ensure that the work of the Investigative Team be informed by relevant anti-trafficking research and expertise and that its efforts to collect evidence on trafficking in persons offences are gender-sensitive, victim centred, trauma-informed, rights-based and not prejudicial to the safety and security of victims.³⁵ Case 2 below provides further detail on the discussions in the Council concerning the establishment of the Investigative Team.

²⁹ Resolution [2364 \(2017\)](#), sixteenth preambular paragraph.

³⁰ Resolutions [2314 \(2016\)](#), para. 1 and [2319 \(2016\)](#), para. 1.

³¹ [S/2016/142](#), [S/2016/530](#), [S/2016/738](#), [S/2016/888](#), [S/2017/131](#), [S/2017/552](#) and [S/2017/904](#).

³² For further background information on the Joint Investigative Mechanism, see part I, sect. 24 and part IX, sect. III.

³³ Resolution [2325 \(2016\)](#), sixth preambular paragraph.

³⁴ Resolution [2379 \(2017\)](#), para. 2.

³⁵ Resolutions [2388 \(2017\)](#), para. 29 and [2396 \(2017\)](#), thirty-second preambular paragraph.

Table 3
Decisions relating to investigative and/or fact-finding activities by the Secretary-General, 2016-2017

<i>Decision and date</i>	<i>Provision</i>
The situation in the Central African Republic	
Resolution 2301 (2016) 26 July 2016	Recalling the submission of the report (S/2014/928) of the International Commission of Inquiry established by resolution 2127 (2013) , noting with concern its finding that the main parties to the conflict, including ex-Seleka, the anti-Balaka, and elements from the CAR Armed Forces (FACA) who collaborated with armed groups committed violations of international humanitarian law and human rights violations and abuses since 1 January 2013, that may amount to war crimes and crimes against humanity, including ethnic cleansing by elements of the anti-Balaka militia (tenth preambular paragraph) Decides that the mandate of MINUSCA shall include the following immediate priority tasks: (b) Promotion and protection of human rights (i) To monitor, help investigate, and report publicly and to the Security Council on violations of international humanitarian law and on violations and abuses of human rights committed throughout the CAR, including undertaking a mapping of such violations and abuses since 2003 to inform efforts to fight impunity (para. 33 (b) (i))
Resolution 2387 (2017) 15 November 2017	Recalling the submission of the report (S/2014/928) of the International Commission of Inquiry established by resolution 2127 (2013) , noting with concern its finding that the main parties to the conflict, including ex-Seleka, the anti-Balaka, and elements from the CAR Armed Forces (FACA) who collaborated with armed groups committed violations of international humanitarian law and human rights violations and abuses since 1 January 2013, that may amount to war crimes and crimes against humanity, including ethnic cleansing by elements of the anti-Balaka militia (eighth preambular paragraph) Takes note in this regard of the report of the Mapping Project describing serious violations and abuses of international human rights and violations of international humanitarian law committed within the territory of CAR between January 2003 and December 2015 and further calls on the CAR authorities to follow-up on these recommendations (para. 26)
The situation in Mali	
Resolution 2295 (2016) 29 June 2016	Decides that MINUSMA's mandate shall include the following priority tasks: <i>(a) Support to the implementation of the Agreement on Peace and Reconciliation in Mali</i> (iii) To support the implementation of the reconciliation and justice measures of the Agreement, especially in its Part V, including with respect to the establishment of an international commission of inquiry, in consultation with the parties and support the operationalization of the Truth, Justice and Reconciliation Commission (para. 19 (a) (iii))
Resolution 2364 (2017) 29 June 2017	Noting the lack of progress in the creation and operationalization mechanisms to promote reconciliation and justice, including the Commission of Inquiry as well as the Truth, Justice and Reconciliation Commission, and expressing concern that this delay risks creating a culture of impunity by allowing human rights abuses and violations to go unaddressed (sixteenth preambular paragraph) Decides that MINUSMA's mandate shall include the following priority tasks: <i>(a) Support to the implementation of the Agreement on Peace and Reconciliation in Mali</i> (iii) To support the implementation of the reconciliation and justice measures of the Agreement, especially in its Part V, including with respect to the establishment and operations of an international commission of inquiry, in consultation with the parties, and support the operationalization of the Truth, Justice and Reconciliation Committee (para. 20 (a) (iii))

Decision and date *Provision*

The situation in the Middle East

Resolution [2314](#)
([2016](#))
31 October 2016

Decides to renew the mandate of the Joint Investigative Mechanism, as set out in resolution 2235, until 18 November 2016, and expresses its intention to consider a further extension before the expiration of this mandate (para. 1)

Reaffirms paragraphs 1-4, 6-9, 12, and 15 of resolution 2235, and stresses the need for the full functioning of the Joint Investigative Mechanism during this period (para. 2).

Resolution [2319](#)
([2016](#))
17 November 2016

Decides to renew the mandate of the Joint Investigative Mechanism, as set out in resolution 2235, for a further period of one year from the date of adoption of this resolution, with a possibility of further extension and update by the Security Council if it deems necessary (para. 1)

Encourages the Joint Investigative Mechanism, where relevant, to consult appropriate United Nations counter-terrorism and non-proliferation bodies, in particular the Committee established pursuant to resolution 1540 and 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee, in order to exchange information on non-State actor perpetration, organization, sponsorship, or other involvement in use of chemicals as weapons in the Syrian Arab Republic where the OPCW Fact-Finding Mission (FFM) determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons (para. 4)

Invites the Joint Investigative Mechanism to engage relevant regional States in pursuit of its mandate, including in order to identify to the greatest extent feasible any individuals, entities or groups associated with ISIL (Da'esh) or ANF who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons in the Syrian Arab Republic where the OPCW FFM determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons, encourages relevant regional states to provide, as appropriate, to the Joint Investigative Mechanism information on non-State actors' access to chemical weapons and their components or efforts by non-State actors to develop, acquire, manufacture, possess, transport, transfer or use chemical weapons and their means of delivery that occur under their jurisdiction, including relevant information from national investigations, and underscores the importance of States Parties' obligations under Article VII of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC), and the full implementation of paragraph 8 of resolution 2235, including with respect to information pertaining to non-State actors (para. 5)

Recalls Article X.8 and X.9 of the CWC allowing any State Party to request and receive assistance and protection against the use or threat of use of chemical weapons if it considers that chemical weapons have been used against it, recalls further that such requests, substantiated by relevant information, are transmitted by the Director General of the OPCW to the Executive Council and all States Parties to the CWC, and invites the Joint Investigative Mechanism to offer its services to the OPCW in such circumstances if relevant to effectively fulfilling the Joint Investigative Mechanism's mandate (para. 6)

Reaffirms paragraph 7 of resolution 2235, including with respect to the ability of the Joint Investigative Mechanism to examine additional information and evidence that was not obtained or prepared by the FFM but that is related to the mandate of the Joint Investigative Mechanism, and stresses the need for its full implementation, in particular the provision of information requested by the Joint Investigative Mechanism and the making available of witnesses (para. 7)

Requests the Joint Investigative Mechanism to complete a report within 90 days of adoption of this resolution, and complete subsequent reports as appropriate thereafter, and requests the Joint Investigative Mechanism to present the report, or reports, to the United Nations Security Council and inform the OPCW Executive Council, and invites the Joint Investigative Mechanism to brief, as appropriate, the 1540 Committee, the 1267/1989/2253 Committee or other relevant counter-terrorism or non-proliferation bodies on relevant results of their work (para. 9)

Maintenance of international peace and security

Decision and date *Provision*

Resolution [2388 \(2017\)](#)
21 November 2017

Invites the Secretary-General to ensure that the work of the Investigative Team established pursuant to Resolution [2379 \(2017\)](#) is informed by relevant anti-trafficking research and expertise and that its efforts to collect evidence on trafficked in persons offences are gender-sensitive, victim centred, trauma-informed, rights-based and not prejudicial to the safety and security of victims (para. 29)

Non-proliferation of weapons of mass destruction

Resolution [2325 \(2016\)](#)
15 December 2016

Recalling the decisions in resolution [2118 \(2013\)](#) and resolution [2298 \(2016\)](#) that member states shall inform immediately the Security Council of any violation of resolution [1540 \(2004\)](#), and also recalling the invitation in resolution [2319 \(2016\)](#) for the Joint Investigative Mechanism of the United Nations and the Organization for the Prohibition of Chemical Weapons, to brief, as appropriate the Committee established pursuant to resolution [1540 \(2004\)](#), hereafter the 1540 Committee, on relevant results of its work (sixth preambular paragraph)

Threats to international peace and security

Resolution [2379 \(2017\)](#)
21 September 2017

Requests the Secretary-General to establish an Investigative Team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, to the highest possible standards, which should be addressed by the Terms of Reference referred to in paragraph 4, to ensure the broadest possible use before national courts, and complementing investigations being carried out by the Iraqi authorities, or investigations carried out by authorities in third countries at their request (para. 2)

Requests the Secretary-General to submit to the Security Council, for its approval, within 60 days, Terms of Reference acceptable to the Government of Iraq in order to ensure the Team can fulfil its mandate, and consistent with this resolution, in particular paragraph 6, regarding the operation of the Investigative Team in Iraq (para. 4)

Underlines that another Member State in whose territory ISIL (Da'esh) has committed acts that may amount to war crimes, crimes against humanity, or genocide, may request the Team to collect evidence of such acts, but only with the approval of the Security Council which may request the Secretary-General to submit separate Terms of Reference with regards to the operation of the Team in that State (para. 11)

Threats to international peace and security caused by terrorist acts

Resolution [2396 \(2017\)](#)
21 December 2017

Reaffirming its request in paragraph 2 of resolution [2379 \(2017\)](#), to establish an investigative team, to be headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, and recalling its invitation in paragraph 29 of resolution 2388 to the Secretary-General to ensure that the work of the Investigative Team is informed by relevant anti-trafficking research and expertise and that its efforts to collect evidence on trafficking in persons offences are gender-sensitive, victim centred, trauma-informed, rights based and not prejudicial to the safety and security of victims (thirty-second preambular paragraph)

During the reporting period, the Secretary-General undertook several other investigative actions both at the request of the Council and in his capacity as Chief Administrative Officer of the Organization.

By a letter dated 19 April 2016, the President of the Council informed the Secretary-General that the issue of the ongoing challenges facing the sites for the protection of civilians

established by the United Nations Mission in the Republic of South Sudan (UNMISS), in the context of the attacks on the sites at Malakal on 17 and 18 February 2016, was brought to the attention of the Council.³⁶ The President further informed the Secretary-General that Council members have requested the Department of Peacekeeping Operations to provide a paper containing an analysis of the challenges inherent to the sites, the lessons learned since their establishment and the continuing implications for the Mission and its mandate, coinciding with the conclusion of the work of the board of inquiry into the attack.³⁷

Further, in the aftermath of the violence and the assaults on civilians and United Nations staff in Juba, South Sudan, from 8 to 25 July 2016, the Secretary-General ordered an independent special investigation to review the actions of UNMISS in response to both the sexual violence and violence against civilians in Juba, including at the Terrain camp.³⁸ By his letter dated 1 November 2016, the Secretary-General submitted to the Council a summary of the investigation highlighting key findings of the report together with a list of recommendations to the parties concerned, pointing out issues specific to UNMISS and the systemic issues that the Mission would have to address to implement its mandate more efficiently.³⁹ On 17 April 2017, the Secretary-General also submitted to the Council a summary of the overall achievements of UNMISS and of the Secretariat in implementing the recommendations of the independent special investigation.⁴⁰

In connection with the situation in Republic of Liberia, by a letter dated 4 April 2017, the Secretary-General submitted a peacebuilding plan to direct the role of the United Nations system and other relevant partners in supporting the transition of Liberia as requested by the Council in resolution [2333 \(2016\)](#).⁴¹ As part of the plan, the Secretary-General proposed, in collaboration with the Government of Liberia, the United Nations system and international partners, the Economic Community of West African States (ECOWAS) to, inter alia, deploy a fact-finding team to the country to help with policy and strategic advice to contribute to the conduct of an

³⁶ [S/2016/359](#).

³⁷ Ibid.

³⁸ [S/2016/924](#).

³⁹ Ibid.

⁴⁰ [S/2017/328](#).

⁴¹ [S/2017/282](#).

inclusive and peaceful election in 2017.⁴² In a presidential statement issued on 24 July 2017, the Council welcomed the submission of the peacebuilding plan.⁴³

In his capacity as the Chief Administrative Officer of the United Nations, the Secretary-General continued to establish boards of inquiry to review and investigate incidents related to attacks on United Nations personnel or premises. In several of these instances, he reported the findings of the boards of inquiry to the Security Council. For example, following the 19 September 2016 attack on a United Nations-Syrian Arab Red Crescent convoy at Urem al-Kubra, the Syrian Arab Republic, which resulted in the death of at least 10 persons, the injury of at least 22 persons, and the destruction of vehicles and property, the Secretary-General, by his letter dated 21 December 2016, transmitted to the Council a detailed summary of the report of the United Nations Headquarters Board of Inquiry established to review and investigate the incident.⁴⁴ The Board was established on 21 October 2016 and submitted its report to the Secretary-General on 16 December 2016.⁴⁵

Following the deaths of two members of the Group of Experts on the Democratic Republic of the Congo, in March 2017, a United Nations Security Management System Board of Inquiry was convened to establish the facts of the incident and to evaluate the United Nations response to it, and provide recommendations on actions that should be taken to avoid such incidents in the future.⁴⁶ The Board of Inquiry was convened by the Under-Secretary-General for Safety and Security, in consultation with the Executive Office of the Secretary-General and the Under-Secretaries-General for Political and Legal Affairs on 24 April 2017 and submitted its final report on 2 August 2017.⁴⁷ Thereafter, by a letter dated 15 August 2017, the Secretary-General transmitted to the Council a summary of the report, which provided a synopsis of the findings and recommendations contained therein.⁴⁸ By his letter dated 31 October 2017, the Secretary-General informed the Council of his intention, as agreed with the Government of the

⁴² Ibid., para. 63 (b).

⁴³ [S/PRST/2017/11](#).

⁴⁴ [S/2016/1093](#).

⁴⁵ Ibid.

⁴⁶ [S/2017/713](#).

⁴⁷ Ibid.

⁴⁸ Ibid.

Democratic Republic of the Congo, to deploy a team to assist with the national investigation into the incident and to report periodically to the Council on the work of the team.⁴⁹

Case 1

The situation in the Middle East

On 17 November 2016, the Security Council held its 7815th meeting under the item entitled “The situation in the Middle East” during which it unanimously adopted resolution [2319 \(2016\)](#) renewing, for a period of one year, the mandate of the OPCW-United Nations Joint Investigative Mechanism, as established under resolution [2235 \(2015\)](#), to identify individuals, entities, groups or governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons in the Syrian Arab Republic.⁵⁰ In the explanation of their votes, some Council members noted the importance of the Joint Investigative Mechanism to identify those involved in the use of chemical weapons, its deterrent effect on the use of such weapons and the need for it to continue its work.⁵¹ Removing the threat of chemical weapons, according to the representative of Ukraine, was an “essential element in creating proper conditions for de-escalating tensions on the ground, tackling extremism and reaching a sustainable political solution to the crisis”.⁵² Japan stated that, by renewing the mandate of the Joint Investigative Mechanism, the Council was sending a strong and clear message to those responsible for the use of chemical weapons in the Syrian Arab Republic.⁵³ The representative of the Russian Federation reiterated his country’s scepticism regarding the conclusions of the Mechanism’s reports and the modalities of its work.⁵⁴ He also expressed trust that the Mechanism would continue to remember its “own responsibility and ensure impartial, objective work”.⁵⁵ The representative of the People’s Republic of China called on the Joint Investigative

⁴⁹ [S/2017/917](#).

⁵⁰ [S/PV.7815](#), p. 2. The mandate of the OPCW-United Nations Joint Investigative Mechanism had been previously renewed until 17 November 2017 by resolution [2314 \(2016\)](#) of 31 October 2016. See [S/PV.7798](#), p. 2.

⁵¹ [S/PV.7815](#), p. 3 (United States), p. 5 (France), and p. 6 (Spain).

⁵² *Ibid.*, p. 6.

⁵³ *Ibid.*, p. 7.

⁵⁴ *Ibid.*, p. 4.

⁵⁵ *Ibid.*

Mechanism to respect the sovereignty of the countries concerned and pay more attention to the use of chemical weapons by non-state actors and terrorist groups.⁵⁶

At the 7893rd meeting held on 28 February 2017, a draft resolution submitted by 42 Member States,⁵⁷ providing for the imposition of sanctions measures under Chapter VII of the Charter with respect to individuals and entities found responsible for the use of chemical weapons in Syria, was not adopted owing to the negative vote of two permanent members.⁵⁸ In their statements before and after the vote, several Council members stated that the responsibility of the Government of the Syrian Arab Republic and ISIL (Da'esh) for the use of chemical weapons had been established by the Joint Investigative Mechanism.⁵⁹ Given these conclusions, they further underlined the duty of the Council to hold those responsible accountable for their actions.⁶⁰ The representative of the Russian Federation disagreed and argued that the conclusions of the Mechanism in its third and fourth reports were “not based on convincing facts on which any sort of charges could be founded” and questioned the sources of its information and geographical makeup of its personnel.⁶¹ He added that the Russian Federation was seeing a clear trend of bringing powerful political pressure to bear on the Mechanism and pre-programming the results of the investigation as a result of which it was being “forced” to set aside the principles of objectivity, independence and impartiality which were set forth in the resolution that established it.⁶² While also calling for objective and fair investigation criteria, several other Council members were of the view that the draft resolution constituted a premature judgment on the reports of the Joint Investigative Mechanism.⁶³ The representative of the Plurinational State of Bolivia expressed concern about the proposed measures as well as the process for the elaboration of the list of individuals and entities that would have been subject to the measures,

⁵⁶ *Ibid.*, p. 5 (China).

⁵⁷ Draft resolution ([S/2017/172](#)) submitted by Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Saudi Arabia, Slovakia, Spain, Sweden, Turkey, Ukraine, United Arab Emirates, United Kingdom and United States.

⁵⁸ [S/PV.7893](#), p. 4.

⁵⁹ *Ibid.*, p. 3 (France), pp. 4-5 (United States); p. 6 (United Kingdom); p. 9 (Uruguay) and p. 14 (Sweden).

⁶⁰ *Ibid.*, p. 3 (France); pp. 4-5 (United States); p. 6 (United Kingdom); pp. 8-9 (Japan); p. (Uruguay); p. 10 (Italy) and p. 14 (Sweden).

⁶¹ *Ibid.*, p. 7.

⁶² *Ibid.*, pp. 7-8.

⁶³ *Ibid.*, p. 9 (China), p. 11 (Bolivia (Plurinational State of)), p. 12 (Egypt) and p. 13 (Ethiopia).

which did not involve the Joint Investigative Mechanism and therefore violated the right to due process.⁶⁴

During the Council's 8090th meeting held on 7 November 2017, the Under-Secretary-General and High Representative for Disarmament and the Head of the OPCW-United Nations Joint Investigative Mechanism briefed on the work of the Mechanism, as well as that of the OPCW Fact-finding Mission established to determine the existence of a chemical weapons attack.⁶⁵ The Under-Secretary-General described the most recent findings of the Fact-finding Mission related to the alleged chemical attack in at Ltamenah, on 30 March 2017, as deeply concerning, all the more so in view of the expiration of the mandate of the Joint Investigative Mechanism on 16 November 2017.⁶⁶ The Head of the Joint Investigative Mechanism noted the conclusion of the seventh report submitted on 26 October 2017, that there was sufficient evidence of a "credible and reliable nature" to conclude that chemical weapons were used by ISIL (Da'esh) at Um Hawsh, on 15 and 16 September 2016, and by the Syrian Arab Republic at Khan Shaykun, on 4 April 2017.⁶⁷ He further elaborated on the methodology used by the Mechanism in reaching its conclusions.⁶⁸ The Head of the Mechanism concluded by underlining the importance for the international community to ensure that it had effective ways to respond rapidly to any future use of chemical weapons, including acts of chemical terrorism.⁶⁹

In the discussion that ensued, several Council members stated that the Joint Investigative Mechanism conducted its work in accordance with its terms of reference and called on the Council to renew its mandate in order to ensure accountability for and preventing future use of chemical weapons in Syria.⁷⁰ The representative of the United Kingdom maintained that the Mechanism had built its case on the totality of evidence available to it, as "any professional, rational investigation would do".⁷¹ The representative of the Russian Federation questioned the methodologies of the Joint Investigative Mechanism, as well as the OPCW Fact-finding mission,

⁶⁴ Ibid., p. 11.

⁶⁵ [S/PV.8090](#), pp. 2-7.

⁶⁶ Ibid., p. 3.

⁶⁷ Ibid., p. 3.

⁶⁸ Ibid. pp. 3-7.

⁶⁹ Ibid., p. 7.

⁷⁰ Ibid., p. 8 (United States), p. 9 (Ukraine), p. 10 (France), p. 12 (Japan), p. 14 (Uruguay), p. 18 (United Kingdom) and p. 22 (Sweden).

⁷¹ Ibid., pp. 1418.

citing “systemic deficiencies” and stating that “[t]heir mandates have been implemented selectively, without the use of the whole range of methods and means based on the standard of the Chemical Weapons Convention”, including witness interviews and a site visit.⁷² The result, he explained, was a “series of gross errors” in the report of the Joint Investigative Mechanism.⁷³ Without comprehensive changes in its working methods, the Russian Federation representative maintained that the Mechanism would not achieve its intended goal of closing a large gap in international tools used to address such issues as investigating cases of chemical terrorism as well as being a preventive mechanism aimed at deterrence.⁷⁴ While expressing overall support for the Joint Investigative Mechanism, several other Council members also pointed to inconsistencies in the report’s conclusions and highlighted the need for the improvement in its methodology in the future.⁷⁵

The Council further discussed the renewal of the mandate of the Joint Investigative Mechanism during its 8105th and 8107th meetings held respectively on 16 and 17 November 2017. Three draft resolutions failed to be adopted during these meetings owing to the negative vote cast by a permanent member of the Council.⁷⁶ By his letter dated 27 December 2017, transmitting to the Council the fifty-first monthly report of the Director-General of OPCW submitted pursuant to paragraph 12 of resolution [2118 \(2013\)](#), the Secretary-General noted that, with the end of the mandate of the Joint Investigative Mechanism, there was now a gap in collective efforts to identify those responsible for the use of chemical weapons.⁷⁷ He, therefore, reiterated his call upon the Council to give all due attention to the ongoing reports of the use of chemical weapons in the Syrian Arab Republic in order to preclude any impression that such weapons may be used without consequence.⁷⁸

⁷² Ibid. p. 14.

⁷³ Ibid., p. 15.

⁷⁴ Ibid., p. 17.

⁷⁵ Ibid., p. 11 (Egypt); p. 12-13 (Kazakhstan); p. 19 (China); p. 20 (Bolivia (Plurinational State of)) and p. 21 (Ethiopia).

⁷⁶ [S/PV.8105](#), pp. 3 and 19, [S/PV. 8107](#), p. 2. See also draft resolution submitted by France, Italy, Japan, Sweden, Ukraine, United Kingdom and United States ([S/2017/962](#)), draft resolution submitted by Bolivia (Plurinational State of) ([S/2017/968](#)) and draft resolution submitted by Japan ([S/2017/970](#)).

⁷⁷ [S/2017/1119](#).

⁷⁸ Ibid.

Case 2

Threats to international peace and security

On 21 September 2017, during its 8052nd meeting held under the item entitled “Threats to international peace and security”, the Council adopted resolution [2379 \(2017\)](#), submitted by 44 Member States,⁷⁹ requesting the Secretary-General to establish an Investigative Team to support domestic efforts to hold ISIL (Da’esh) accountable for war crimes, crimes against humanity and genocide in Iraq.⁸⁰ In the explanation of his vote during the high-level meeting, the representative of the United Kingdom described the resolution as a vital step to bring ISIL (Da’esh) to justice and, in doing so, also “seeking to heal the sectarian divides that Da’esh has exploited and enflamed”.⁸¹ The Foreign Minister of Sweden described the resolution as an example of how the Security Council could take action in support of accountability and that accountability was critical to delivering on the Council’s aims of reconciliation and sustaining peace.⁸² She further welcomed the “global advocacy role” of the Special Advisor to the Secretary-General established under the resolution, as well as the fact that other Member States could request assistance from the team with the approval of the Security Council.⁸³ Other representatives highlighted the importance of the decision in the context of international efforts to combat terrorism.⁸⁴ The representatives of France and Sweden expressed the position that the Investigative Team should not contribute to trials that may lead to capital punishment.⁸⁵

A number of Council members emphasized the need for such international investigative mechanisms to fully respect the sovereignty of Member States.⁸⁶ The representative of the Russian Federation, in particular, added that resolution [2379 \(2017\)](#) did not undermine the tenet that the primary responsibility to bring terrorists to justice rested with States and did not create

⁷⁹ Australia, Austria, Bahrain, Belgium, Bulgaria, Cambodia, Canada, Croatia, the Czech Republic, Djibouti, Estonia, Ethiopia, Finland, France, Germany, Hungary, Iceland, Iraq, Israel, Italy, Japan, Kazakhstan, Latvia, Lithuania, Luxembourg, Morocco, the Netherlands, Nigeria, Norway, Oman, Peru, Poland, Qatar, Saudi Arabia, Senegal, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, the United Kingdom, the United States and Uruguay.

⁸⁰ Resolution [2379 \(2017\)](#), para. 2.

⁸¹ [S/PV.8052](#), pp. 2-3.

⁸² *Ibid.*, p. 4.

⁸³ *Ibid.*, p. 4.

⁸⁴ *Ibid.*, p. 5. (Kazakhstan); p. 8 (China); p. 10 (Uruguay) and p. 11 (Egypt).

⁸⁵ *Ibid.*, p. 4 (Sweden) and p. 7 (France).

⁸⁶ *Ibid.*, p. 6 (Russian Federation); p. 8 (China); 9 (Bolivia, Plurinational State of); p. 11 (Egypt) and p. 12 (Ethiopia).

any new precedents in this regard.⁸⁷ The representative of Iraq outlined that the resolution fully respected the sovereignty of his country and was founded on three pillars, namely providing international assistance in evidence collection in line with robust international legal standards, the sharing of international legal expertise with Iraqi experts and judges, and Iraq's readiness to assist other countries whose nationals might be members of the terrorist group by sharing evidence with them.⁸⁸

By his letters dated 20 November and 13 December 2017, the Secretary-General requested the Council to extend the time frame for the submission of the terms of reference for the Investigative Team in order to continue to reach an agreement with the Government of Iraq concerning the sharing of evidence by the team for use in criminal proceedings in which capital punishment could be imposed or carried out.⁸⁹

C. Other instances of investigative functions acknowledged by the Security Council

During the period under review, in its decisions, the Security Council also recognized the investigative functions performed by the Office of the High Commissioner for Human Rights (OHCHR), the Human Rights Council and OPCW in relation to the situations in Burundi, the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo and the Syrian Arab Republic. The provisions of decisions of the Council referring to such functions are set out in table 4.

Table 4
Decisions relating to investigation and inquiry by United Nations bodies and related organizations, 2016-2017

<i>Decision and date</i>	<i>Provision</i>
The situation in Burundi	
Resolution 2279 (2016) 1 April 2016	Noting with satisfaction the cooperation and access to some political prisoners provided by the Burundian authorities to the independent experts of the Office of the High Commissioner on Human Rights (OHCHR) on the ground (twelfth preambular paragraph)
Resolution 2303 (2016)	Noting the visits to Burundi from 1 to 8 March and from 13 to 17 June 2016 of the experts of the United Nations Independent Investigation on Burundi (UNIIB) requested by the Human Rights Council in its

⁸⁷ *Ibid.*, p. 6.

⁸⁸ *Ibid.*, p. 13.

⁸⁹ [S/2017/989](#) and [S/2017/1072](#).

<i>Decision and date</i>	<i>Provision</i>
29 July 2016	resolution of 17 December 2015 (ninth preambular paragraph)
S/PRST/2017/13 2 August 2017	...The Security Council further calls on the Government of Burundi to cooperate with the Commission of Inquiry on Burundi mandated under Human Rights Council resolution A/HCR/33/24 (twelfth paragraph)
The situation in the Central African Republic	
Resolution 2301 (2016) 26 July 2016	Stressing the urgent and imperative need to end impunity in the CAR and to bring to justice perpetrators of violations of international humanitarian law and of abuses and violations of human rights, underlining in this regard the need to bolster national accountability mechanisms, including the Special Criminal Court (SCC) and underlining its support for the work of the Independent Expert on human rights in the CAR (twelfth preambular paragraph)
Resolution 2387 (2017) 15 November 2017	Stressing the urgent and imperative need to end impunity in the CAR and to bring to justice perpetrators of violations of international humanitarian law and of abuses and violations of human rights, welcoming in this regard the progressive operationalization of the Special Criminal Court (SCC) and underlining the need to bolster the other national accountability mechanisms as well as the support for the work of the Independent Expert on human rights in the CAR (eleventh preambular paragraph)
The situation in Côte d'Ivoire	
Resolution 2284 (2016) 28 April 2016	Decides that until 30 April 2017, the mandate of UNOCI shall be the following: (d) Support for compliance with international humanitarian and human rights law To contribute to the promotion and protection of human rights in Côte d'Ivoire, including through early warning activities and in close coordination with the Independent Expert established under the Human Rights Council's resolution A/HRC/RES/17/21, and to monitor, help investigate, and report to the Security Council on abuses and violations of human rights and violations of international humanitarian law in order to prevent such abuses and violations and contribute to ending impunity (para. 15 (d))
The situation concerning the Democratic Republic of the Congo	
Resolution 2348 (2017) 31 March 2017	Condemns the violence witnessed in the Kasai region over recent months, expresses grave concern at serious violations of international humanitarian law committed by local militia in that region, including those involving attacks on DRC security forces and symbols of State authority, recruitment and use of children in violation of applicable international law, and further expresses serious concerns at the recent reports of mass graves and of killings of civilians by members of the security forces of the DRC, all of which might constitute war crimes under international law, welcomes the announcement by the Government of the DRC that they will conduct investigations into violations of international humanitarian law and violations or abuses of human rights in the Kasais jointly with MONUSCO and the United Nations Joint Human Rights Office in the DRC, and in collaboration with the AU, in order to bring to justice and hold accountable all those responsible, and looks forward to their results (para. 10)
Resolution 2360 (2017) 21 June 2017	Reiterating the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations and abuses of human rights in the Kasais region, further reiterating its intention to closely monitor progress of the investigations into these violations, including the disproportionate use of force, which will be conducted jointly by the Government of the DRC, MONUSCO and the United Nations Joint Human Rights Office in the DRC, and in collaboration with the AU, as announced by the Government of the DRC, in order to bring to justice and hold accountable all those responsible, and looking forward to their results (eleventh preambular paragraph)
S/PRST/2017/12 26 July 2017	The Security Council 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 Kasai region. It welcomes the dispatch of a team of international experts to work in cooperation with the Government of the DRC. The Security Council reiterates its intention to closely monitor progress of the investigations into these violations and abuses, including the joint investigations by the Government of the DRC,

<i>Decision and date</i>	<i>Provision</i>
	MONUSCO and the United Nations Joint Human Rights Office in the DRC, in order to bring to justice and hold accountable all those responsible, and it looks forward to their report (seventh paragraph)
The situation in the Middle East	
Resolution 2314 (2016) 31 October 2016	Noting that additional allegations of chemical weapons use in Syria are being investigated by the Fact-Finding Mission of the OPCW (second preambular paragraph)
Resolution 2319 (2016) 17 November 2016	Noting that additional allegations of chemical weapons use in Syria are being investigated by the Fact-Finding Mission of the Organization for the Prohibition of Chemical Weapons (OPCW) (second preambular paragraph)
The situation in Myanmar	
S/PRST/2017/22 6 November 2017	The Security Council stresses the importance of undertaking transparent investigations into alleged human rights abuses and violations, including sexual violence and abuse against children, and of holding to account all those responsible for such acts to provide justice for victims (eighth paragraph) In this regard, the Security Council calls upon the Government of Myanmar to cooperate with all relevant United Nations bodies, mechanisms and instruments, in particular the United Nations High Commissioner for Human Rights, and to continue further consultations on opening a country office of the OHCHR (eighteenth paragraph)

During the meetings of the Council and in some of the written communications, Council members made reference to the investigative function of the Human Rights Council and the Office of the High Commissioner for Human Rights and the outcome of their investigations. For example, speakers before the Council acknowledged the work of the United Nations Independent Investigation on Burundi,⁹⁰ as well as the Independent International Commission of Inquiry on the Syrian Arab Republic both of which were established by the Human Rights Council.⁹¹ Furthermore, cases 3 and 4 below illustrate the discussions in the Council with respect to the investigative work of the Human Rights Council and OHCHR in relation to the situation in the Democratic People's Republic of Korea (case 3) and the situation in Myanmar (case 4).

Regarding the communications, by a letter dated 27 April 2017, following an Arria-formula meeting with the Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic on 21 April 2017, France and the United Kingdom drew the attention of the Council to the latest report of the Commission of 10 March 2017 presenting what the letter

⁹⁰ [S/PV.7665](#), p. 5 (Ukraine); [S/PV.7752](#), p. 7 (United States); [S/PV.8013](#), p. 6 (Uruguay).

⁹¹ [S/PV.7673 Resumption 1](#), p. 2 (Brazil); [S/PV.7795](#), p. 13 (France), [S/PV.7915](#), p. 12 (Sweden); [S/PV.7915](#), p. 12 (Sweden); [S/PV.7919](#), p. 15 (Sweden); [S/PV.7931](#), p. 9 (Senegal), p. 10 (Uruguay); [S/PV.7955](#), p. 12 (Senegal); [S/PV.8058](#), p. 10 (United States) and [S/PV.8105](#), p. 4 (United States).

described as a “detailed and sobering account of widespread and systematic human rights violations that are being committed”.⁹²

Similarly, by a note verbale dated 18 April 2017, Ukraine made reference to the reports on the human rights situation in Ukraine of OHCHR in light of the Council briefing under the item entitled “Maintenance of international peace and security” in relation to human rights and the prevention of armed conflict and the invitation of the Government of Ukraine of a human rights monitoring mission as an immediate response to “Russian aggression” to prevent massive human rights violations. The letter further expressed the belief that consideration of human rights issues was an integral part of the Council’s efforts in conflict prevention and resolution.⁹³

Case 3

The situation in the Democratic People’s Republic of Korea

The Council discussed the human rights situation in the Democratic People’s Republic of Korea at the 7830th meeting, on 9 December 2016, under the item entitled “The situation in the Democratic People’s Republic of Korea” further to a letter submitted by nine Council members.⁹⁴ Following the adoption of the provisional agenda, the Deputy Secretary-General stated that the recommendations of the Human Rights Council’s Commission of Inquiry report of February 2014 were instrumental in reframing the efforts of the United Nations to improve the country’s human rights situation.⁹⁵ He added that this process was carried further by the adoption of the Council’s resolution [2321 \(2016\)](#), which requested the Government of the Democratic People’s Republic of Korea to respect and ensure the “welfare and inherent dignity” of people in its territory.⁹⁶ In his remarks, the Assistant Secretary-General for Human Rights affirmed that accountability was vital and hoped for the Security Council to remain seized of the matter. He mentioned that the General Assembly had again encouraged the Security Council to take

⁹² [S/2017/372](#).

⁹³ [S/2017/334](#).

⁹⁴ Letter dated 1 December 2016 ([S/2016/1034](#)) submitted by France, Japan, Malaysia, New Zealand, Spain, Ukraine, the United Kingdom, the United States and Uruguay. For further information on the discussions held at the Council concerning the adoption of the agenda, see part II, sect. I.C, case 2.

⁹⁵ [S/PV.7830](#), p. 5. See also [A/HRC/25/63](#).

⁹⁶ [S/PV.7830](#), p. 5.

appropriate action including through a referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court.⁹⁷

Citing a lack of overall progress since the publication of the report in 2014, several Council members underscored the importance of holding a Council meeting to discuss the human rights situation in the Democratic People's Republic of Korea.⁹⁸ The representative of Japan stated that there was a clear linkage between the human rights violations in the Democratic People's Republic of Korea and the instability of the region.⁹⁹ The representative of Ukraine expressed his country's strong support for the conclusions and recommendations of the Commission of Inquiry and for the establishment of the High Commissioner for Human Rights office in Seoul, Republic of Korea, one year prior, to monitor and report on the situation.¹⁰⁰ The representative of New Zealand further welcomed the appointment of a new Special Rapporteur on the human rights situation by the Human Rights Council.¹⁰¹ The representative of the United States stated that the Council had an important role to play by, inter alia, considering the recommendation by the Commission of Inquiry that "the situation in North Korea" be referred to the International Criminal Court.¹⁰² In contrast, the representatives of China, the Russian Federation, Venezuela (Bolivarian Republic of) and Arab Republic of Egypt expressed criticism with the decision to hold the meeting, noting that the issue of human rights in the Democratic People's Republic of Korea did not fall within the Council's purview.¹⁰³

The human rights situation in the Democratic People's Republic of Korea was again discussed one year later, at the Council's 8130th meeting, on 11 December 2017, further to a letter submitted by nine Council members.¹⁰⁴ Several of them reiterated that the recommendations of the Commission of Inquiry remained pertinent and needed to be implemented.¹⁰⁵ The representative of Republic of Senegal encouraged the Democratic People's Republic of Korea to cooperate better with relevant mechanisms on the promotion of human

⁹⁷ Ibid., p. 8.

⁹⁸ Ibid., pp. 2 and 13-15 (United States), p. 8 (Japan), p. 9 (United Kingdom), p. 11-12 (France) and p. 20 (Spain).

⁹⁹ Ibid., p. 8.

¹⁰⁰ Ibid., p. 11.

¹⁰¹ Ibid., p. 17.

¹⁰² Ibid., p. 15.

¹⁰³ Ibid., p. 2 (China), p. 3 (Russian Federation); p. 4 (Venezuela) and p. 13 (Egypt).

¹⁰⁴ Letter dated 1 December 2017 ([S/2017/1006](#)) from the Permanent Representatives of France, Italy, Japan, Senegal, Sweden, Ukraine, the United Kingdom, the United States and Uruguay.

¹⁰⁵ [S/PV.8130](#), p. 10 (United States); p. 10 (France); p. 12 (Sweden); and p. 17 (Italy).

rights, including the Commission of Inquiry.¹⁰⁶ The representative of the United Kingdom deplored the lack of action on the report and requested the Democratic People’s Republic of Korea to allow human rights actors immediate and unhindered access to the country.¹⁰⁷ The representative of Japan highlighted the Commission’s reports regarding the abduction of foreign nationals by the Democratic People’s Republic of Korea which, the representative argued, constituted a threat to international peace and security.¹⁰⁸ The representative of Egypt, citing his country’s commitment to the principles of the Charter, including sovereign equality of Member States and non-interference in their internal affairs, argued that the Council was not the relevant international forum to address the internal human rights situation in countries, unless the matter concerned acts of genocide or ethnic cleansing, which had a direct impact on international peace and security.¹⁰⁹ The representative of the Republic of Kazakhstan opined that the Human Rights Council was a more appropriate platform to discuss country-specific human rights issues, that such issues must be seen in an impartial and objective way, in keeping with the accepted principles of international law, which should be realized through diplomacy, mediation, inclusive dialogue and capacity-building.¹¹⁰ The representative of Federal Democratic Republic of Ethiopia stated that the Council should devote all its time and energy to finding a peaceful and diplomatic solution to the situation on the Korean peninsula through dialogue and negotiation in addition to expressing serious concern regarding the human rights situation.¹¹¹

Case 4

The situation in Myanmar

On 28 September 2017, during its 8060th meeting, the Secretary-General briefed the Council on the crisis in Myanmar following the escalation of fighting in northern Rakhine state in August 2017 and underscored a clear need to ensure accountability for the perpetrators of

¹⁰⁶ Ibid., p. 13.

¹⁰⁷ Ibid., p. 14.

¹⁰⁸ Ibid., p. 19.

¹⁰⁹ Ibid., p. 3.

¹¹¹ Ibid., p. 18.

¹¹¹ Ibid., p. 5.

¹¹¹ Ibid., p. 18.

¹¹¹ Ibid., p. 5.

human rights violations, to curb violence and prevent future abuses.¹¹² During the discussion that ensued, several Council members urged the Government of Myanmar to cooperate with and provide full access to the independent international fact-finding mission established by the Human Rights Council, on 3 April 2017, to investigate human rights abuses and violations in Myanmar, and Rakhine state in particular.¹¹³ Italy argued that the fact-finding mission, in cooperation with the United Nations Special Rapporteur on the human rights situation in Myanmar, could complement Government efforts by exhaustively and impartially assessing the situation and facilitating reconciliation.¹¹⁴

At the 8133rd meeting held on 12 December 2017, the representative of the United States deplored the lack of any concrete action to hold accountable those responsible for the atrocities and stated that allowing full access for the United Nations fact-finding mission to gather information and evidence on the ground was vital to accountability and a solution to the crisis.¹¹⁵ The representative of France stated that incitement to hatred was designed to dehumanize communities such as the Rohingya and to continue to fuel the root causes of violence and underlined the need to establish serious measures to enable the investigation of violations and the prosecution of the perpetrators in order to put an end to the atmosphere of impunity.¹¹⁶ The representative of the People's Republic of Bangladesh, participating under rule 37 of the provisional rules of procedure, expressed disappointment with Myanmar's continued denial of access for the fact-finding mission even after the mission put forward a constructive proposal for gathering a group of interlocutors from concerned entities of the Government to engage with them in a transparent manner.¹¹⁷ The representative of Ethiopia recognized the critical need to investigate allegations of sexual violence committed in Rakhine State and welcomed the planned visit to Myanmar by the Special Representative of the Secretary-General for Sexual Violence in Armed Conflict.¹¹⁸

¹¹² [S/PV.8060](#), p. 4.

¹¹³ *Ibid.*, p. 5 (United Kingdom); p. 11 (Sweden); p. 12 (France), p. 1213 (Kazakhstan) and p. 18 (Uruguay); see also [A/HRC/RES/34/22](#).

¹¹⁴ [S/PV.8060](#), p. 17.

¹¹⁵ [S/PV.8133](#), p. 8.

¹¹⁶ *Ibid.*, p. 14.

¹¹⁷ *Ibid.*, p. 23.

¹¹⁸ *Ibid.*, p. 13.

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

Article 33

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

Article 36

1. *The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.*
2. *The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.*
3. *In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.*

Article 37

1. *Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.*
2. *If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.*

Article 38

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

Note

Article 33 (1) of the Charter of the United Nations expressly provides the framework for parties to settle their disputes by peaceful means. According to Article 33 (2) of the Charter, the Security Council shall call on the parties to settle their disputes by such peaceful means as provided for in Article 33 (1). The Council may recommend appropriate procedures or methods of adjustment for the settlement of disputes under Article 36 (1). According to Article 36 (2) of the Charter, the Council should take into consideration procedures for the settlement of the dispute already adopted by the parties. Article 36 (3) provides further that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. Article 37 (2) envisages that, following a referral, the Council shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate. Article 38 provides that the Council may make recommendations to the parties with a view to a pacific settlement of the dispute.

Section III examines the decisions of the Security Council in 2016 and 2017 in connection with the peaceful settlement of disputes within the framework of Chapter VI of the Charter. Decisions explicitly adopted under Chapter VII of the Charter have not been considered for the purposes of this section. Subsections A to C illustrate how the Council addressed the pacific settlement of disputes in the context of, respectively, thematic issues, country-specific and regional situations and the settlement of disputes involving the Secretary-General. As noted in subsection D, Council decisions in support of the pacific settlement of disputes by regional organizations are covered in part VIII.

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

This subsection provides an overview of the decisions of the Security Council adopted on thematic issues and relating to the pacific settlement of disputes. During the period under review, the Council's decisions highlighted the importance of sustaining peace, preventing conflict and addressing its root causes, as well as the primacy of political approaches at all stages of conflict. Regarding the tools at the disposal of the international community, the Council emphasized the importance of peacekeeping, peacebuilding and the good offices and mediation role of the Secretary-General. The Council also consistently underlined the need for inclusive peace agreements, political transition and national reconciliation processes and close cooperation with regional and sub-regional organizations. Set out below is a more detailed description of the decisions of the Council relating to these topics.

Sustaining peace and political solutions to conflict

As mentioned above, the Council recognized in its decisions the notion of “sustaining peace” as a shared responsibility between governments and national stakeholders which encompassed activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development.¹¹⁹ The Council further emphasized that sustaining peace was a shared task and responsibility that needed to be fulfilled by the government and all other national stakeholders and should flow through all three pillars of the United Nations' engagement at all stages of conflict.¹²⁰

The Council stressed that the “primacy of politics” should be the hallmark of the approach of the United Nations to the resolution of conflict, including through mediation, the monitoring of ceasefires and assistance to the implementation of peace accords.¹²¹ In this context, the Council recognized the need to weigh the full range of responses, when addressing a

¹¹⁹ See resolution [2282 \(2016\)](#), twelfth preambular paragraph; [S/PRST/2017/27](#), third paragraph.

¹²⁰ See resolution [2282 \(2016\)](#), eighth preambular paragraph; [S/PRST/2017/27](#), third paragraph.

¹²¹ See [S/PRST/2017/27](#), seventh paragraph. See also resolution [2378 \(2017\)](#), para. 1.

situation which might endanger international peace and security, and to deploy United Nations peacekeeping missions and pursue peacebuilding efforts as an accompaniment, not as an alternative, to a political strategy that addressed, among other elements, the root causes of conflict.¹²² Furthermore, the Council recognized that peacebuilding was an inherently political process aimed at preventing the outbreak, escalation, recurrence or continuation of conflict and which encompassed a wide range of political, developmental, and human rights programmes and mechanisms.¹²³ In this context, the Council acknowledged the importance of strong coordination, coherence and cooperation with the Peacebuilding Commission, including in developing long-term perspectives required for sustaining peace being reflected in the formation, review and drawdown of peacekeeping operations and special political missions' mandates.¹²⁴

During the review period, the Council underscored the importance of a comprehensive approach to transitional justice, including through the promotion of healing and reconciliation, security sector reform, demobilization, disarmament and reintegration as critical to the consolidation of peace and stability.¹²⁵ The Council also noted the positive contribution that mine action activities had made in the stabilization and peace sustaining efforts and encouraged its inclusion in relevant ceasefire and peace agreements.¹²⁶

Good offices and mediation

In several of its decisions on thematic agenda items, the Council also recognized the importance of the good offices and mediation role of the Secretary-General special envoys in the peaceful mediation of conflict and encouraged them to work closely with regional and sub-regional organizations in this regard.¹²⁷ More specifically, the Council stressed the important role of the Special Representative of the Secretary-General for Children and Armed Conflict in, inter alia, enhancing dialogue with concerned governments and parties to an armed conflict and compiling best practices on the integration of child protection issues in peace processes.¹²⁸

¹²² See [S/PRST/2017/27](#), twelfth paragraph.

¹²³ See [S/PRST/2016/12](#), second paragraph.

¹²⁴ [S/PRST/2017/27](#), twenty-third paragraph.

¹²⁵ Resolution [2282 \(2016\)](#), para. 12.

¹²⁶ Resolution [2365 \(2017\)](#), para. 9.

¹²⁷ See resolution [2320 \(2016\)](#), para. 10; resolution [2378 \(2017\)](#), para. 4.

¹²⁸ [S/PRST/2017/21](#), forty-first and forty-second paragraphs.

Moreover, the Council reaffirmed the duty of all States to settle their international disputes by peaceful means through, inter alia, negotiation, enquiry, good offices, mediation, conciliation, arbitration and judicial settlement, or other peaceful means of their own choice.¹²⁹ The Council also stressed that the prevention of conflicts remained a primary responsibility of States and that actions undertaken by the United Nations within the framework of conflict prevention should support and complement their efforts in this regard.¹³⁰

Inclusive political processes

The decisions of the Council during the period under review made reference to inclusivity and national ownership in the pacific settlement of disputes as a significant factor in the sustainability of peace agreements. Specifically, the Council called for the greater participation of women at all levels of conflict prevention, resolution and implementation of peace agreements facilitated by the United Nations, regional and sub-regional organizations, and particularly noted the role women and civil society can play exerting influence over parties to armed conflict.¹³¹ The Council encouraged the Secretary-General to promote gender dimensions of peacebuilding through the strengthening of women's meaningful participation in this context, supporting women's organizations and through monitoring and reporting on achievement.¹³² The Council called for greater participation of women at all levels of mediation, including within the United Nations Mediation Support Unit.¹³³

The Council urged regional support for initiatives aimed at promoting inclusive dialogue amongst national stakeholders, the opening of political space to enable the full and free participation of peaceful political parties, civil society and the media in political processes such as peaceful, inclusive and credible elections.¹³⁴ The Council also stressed the importance of promoting policies and adopting tailored approaches for youth that would positively contribute to peacebuilding efforts, including social and economic development, supporting projects designed

¹²⁹ Resolution [2378 \(2017\)](#), para. 3.

¹³⁰ *Ibid.*, para. 2.

¹³¹ See [S/PRST/2016/9](#), third, fifth and seventh paragraphs. See also [S/PRST/2016/12](#), ninth paragraph; [S/PRST/2016/8](#), fourteenth paragraph.

¹³² Resolution [2282 \(2016\)](#), para. 22.

¹³³ [S/PRST/2016/9](#), fifth and seventh paragraphs. For further information on measures relating to women and peace and security, see part I. sect. 33.

¹³⁴ [S/PRST/2016/2](#), ninth paragraph.

to grow local economies, and providing youth employment opportunities, fostering their education, and promoting youth entrepreneurship and constructive political engagement.¹³⁵

B. Recommendations of the Security Council on country-specific and regional issues relating to the pacific settlement of disputes

Article 33 (2) of the Charter provides that the Council shall call upon the parties to settle disputes by the means established in Article 33 (1), when deemed necessary. In addition, Article 36 (1) of the Charter provides that the Council may recommend appropriate procedures or methods of adjustment. Article 37 (2) establishes further that if the Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate. Article 38 provides that, without prejudice to Articles 33 to 37, the Council may make recommendations to the parties with a view to a pacific settlement of the dispute, if all the parties so request.

This subsection provides an overview of the practice of the Council on the pacific settlement of disputes in the context of country- or region-specific situations. In dealing with complex situations in connection to which the Council determined the existence of a threat to international peace and security, the Council utilized the tools available under Chapter VII of the Charter in parallel with those available under the Chapter VI with a view to restoring peace and to recommending procedures or methods for the pacific settlement of disputes. Decisions adopted expressly under Chapter VII of the Charter are covered in parts VII and X.

In 2016 and 2017, the Council made a wide range of recommendations for the peaceful settlement in the context of largely intra-State conflicts. As described in the overview below, the Council called on parties to (i) cease hostilities and implement ceasefires; (ii) implement inclusive national reconciliation processes; (iii) fully implement existing peace agreements; (iv) engage in dialogue in order to ensure the peaceful transfer of power and the resolution of political and institutional crises; and (v) engage in dialogue in order to resolve longstanding disputes.

¹³⁵ [S/PRST/2016/12](#), tenth paragraph. See also resolution [2282 \(2016\)](#), para. 23.

Cessation of hostilities and ceasefire

With grave security and humanitarian conditions in Myanmar, South Sudan, the Syrian Arab Republic and Republic of Yemen, the Council urged warring parties to cease hostilities and engage in dialogue on a permanent ceasefire.

On 6 November 2017, the Council issued a presidential statement under the item entitled “The situation in Myanmar”, calling upon the Government of Myanmar to ensure no further excessive use of military force, to restore civilian administration and apply the rule of law and to take all necessary measures to restore peace and inter-communal harmony through dialogue and a comprehensive reconciliation process.¹³⁶ The Council also called upon the Government to address the root causes of the crisis by respecting, promoting and protecting human rights and implementing the recommendations of the Advisory Commission on Rakhine State.¹³⁷

Under the agenda item entitled “The situation in the Middle East” and in relation to the conflict in the Syrian Arab Republic, by resolution [2268 \(2016\)](#), the Council endorsed the Joint Statement of the United States and Russian Federation, as Co-Chairs of the International Syria Support Group, on the cessation of hostilities, demanded that all parties fully complied in that regard and implemented resolution [2254 \(2015\)](#) providing for a Syrian-led and Syrian-owned political transition in order to end the conflict.¹³⁸ On 31 December 2016, following a new ceasefire agreement concluded by the warring parties the day before, the Council adopted resolution [2336 \(2016\)](#), by which it expressed support for the efforts of the Russian Federation and Turkey to end violence in the Syrian Arab Republic and jumpstart a political process as well as for the meeting to be held in Astana, Kazakhstan, between the Government of the Syrian Arab Republic and the representatives of the opposition.¹³⁹

Also under the item entitled “The situation in the Middle East” and in relation to the conflict in Yemen, the Council welcomed the commencement of a nationwide cessation of hostilities on 10 April 2016, and the launch of peace talks hosted by State of Kuwait, and led and

¹³⁶ [S/PRST/2017/22](#), sixth and seventh paragraphs.

¹³⁷ *Ibid.*, fifteen and sixteenth paragraphs.

¹³⁸ Resolution [2268 \(2016\)](#), paras. 1, 2 and 3. For more information on the item entitled “The situation in the Middle East”, see part I, sect. 25.

¹³⁹ Resolution [2336 \(2016\)](#), paras. 1 and 3.

facilitated by the Special Envoy of the Secretary-General for Yemen on 21 April.¹⁴⁰ The Council called on all parties to develop a roadmap for the implementation of interim security measures, withdrawals, handover of heavy weapons, restoration of State institutions, and the resumption of political dialogue in line with relevant Council decisions, the Gulf Cooperation Council Initiative and Implementation Mechanism, and the outcomes of the comprehensive National Dialogue conference.¹⁴¹ The Council also stressed that a political solution to the crisis was essential to address, in a durable and comprehensive manner, the threat of terrorism in Yemen.¹⁴² With the continuation of fighting in 2017, the Council reiterated its call to all parties to engage in peace talks in a flexible and constructive manner without preconditions and in good faith.¹⁴³

Under the item entitled “Reports of the Secretary-General on the situation in the Sudan and South Sudan” and in connection with the conflict in South Sudan, the Council called on the Government and the Sudan People’s Liberation Movement in Opposition to adhere to the permanent ceasefire pursuant to the Agreement on the Resolution of the Conflict in South Sudan of 2015,¹⁴⁴ as well as to engage constructively and without preconditions in the High-Level Revitalization Forum under the auspices of the Intergovernmental Authority on Development (IGAD) as a means of resolving the crisis.¹⁴⁵ Taking note of President Salva Kiir’s announcement of the launch of a national dialogue in December 2016, the Council stated that such a process must be inclusive.¹⁴⁶ Finally, the Council also stressed that actions by the parties which threaten the peace, security or stability of South Sudan may be subject to sanctions under resolutions [2206 \(2015\)](#) and [2290 \(2016\)](#).¹⁴⁷

National reconciliation and political transition

Underlining the importance of addressing the root causes of conflict for sustainable peace, the Council called on governments and other political stakeholders in Afghanistan,

¹⁴⁰ [S/PRST/2016/5](#), third paragraph.

¹⁴¹ *Ibid.*, fifth paragraph.

¹⁴² *Ibid.*, eighth paragraph.

¹⁴³ [S/PRST/2017/7](#), fifth paragraph.

¹⁴⁴ [S/PRST/2016/1](#), sixth paragraph; [S/PRST/2017/4](#), first paragraph; [S/PRST/2017/25](#), first paragraph. For more information, see part I, sect. 11, “Reports of the Secretary-General on the Sudan and South Sudan”.

¹⁴⁵ [S/PRST/2017/25](#), third paragraph.

¹⁴⁶ [S/PRST/2017/4](#), fifth paragraph.

¹⁴⁷ *Ibid.*, ninth paragraph.

Burundi, the Central African Republic, and Somalia to implement inclusive national reconciliation and political transition processes. With preparations for the closure of the United Nations Operation in Côte d'Ivoire (UNOCI), the Council also emphasized the importance of inclusive national reconciliation in that country.

Specifically, on the situation in Afghanistan, the Council welcomed the continuing efforts of the Afghan Government to advance the peace process to promote an inclusive, Afghan-led and Afghan-owned dialogue on reconciliation and political participation as well as the commitment by the Afghan Government to support participation of women in the peace process.¹⁴⁸ Welcoming its establishment in January 2016, the Council took note of the peace and reconciliation efforts of the Quadrilateral Coordination Group, consisting of Afghanistan, China, Pakistan and the United States, including efforts to begin talks between the Government and the Taliban groups.¹⁴⁹

In connection with the situation in Burundi, the Council urged the Government and all parties to refrain from any action that would threaten peace and stability and to extend full cooperation to the East African Community (EAC)-led, African Union-endorsed Mediator and his Facilitator, in order to move forward with an inclusive and genuine inter-Burundian dialogue.¹⁵⁰ The Council also expressed its intention to consider targeted measures against all actors who threaten the peace and security of Burundi.¹⁵¹

Regarding the situation in the Central African Republic, the Council acknowledged the election of President Faustin-Archange Touadéra, the formation of a new government and the establishment of the National Assembly in 2016, and welcomed the progress in the peace process on Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR) and security sector reform and national reconciliation.¹⁵² The Council emphasized that the only viable way forward towards the consolidation of peace was for all parties to address the root causes of the conflict in

¹⁴⁸ Resolution [2274 \(2016\)](#), paras. 14 and 52. For further information, see part I, sect. 18, “The situation in Afghanistan”.

¹⁴⁹ Resolution [2274 \(2016\)](#), para. 16.

¹⁵⁰ Resolutions [2279 \(2016\)](#), paras. 1 and 5 and [2303 \(2016\)](#), paras. 1 and 6. For further information, see part I, sect. 4, “The situation in Burundi”.

¹⁵¹ Resolutions [2279 \(2016\)](#), para. 9 and [2303 \(2016\)](#), para. 5.

¹⁵² [S/PRST/2016/17](#), first and second paragraphs. For further information, see part I, sect. 7, “The situation in the Central African Republic”.

an inclusive and comprehensive manner based on the outcomes of the Bangui Forum of 2015, including by deepening and accelerating DDRR of armed groups and dialogue with their representatives.¹⁵³ In 2017, the Council welcomed the African Initiative for Peace and Reconciliation in the Central African Republic and encouraged the President to lead an inclusive political process that would involve men and women of all backgrounds without delay.¹⁵⁴

With respect to the situation in Somalia, during the review period, the Council welcomed the Government's commitment to an inclusive and credible electoral process, emphasized the importance of reconciliation across the country and continued progress towards universal elections by 2020 and underlined the urgent need for progress in the constitutional review process..¹⁵⁵ In 2017, the Council commended the swift and gracious transfer of power after the completion of the elections and the increased participation and representation of the people in the process.¹⁵⁶ In terms of the way forward in the political transition, the Council emphasized the need to accelerate agreement between federal and regional authorities on the security sector and the peacebuilding and State-building process.¹⁵⁷

In relation to the situation in Côte d'Ivoire, the Council stressed the need for inclusive national reconciliation and social cohesion and the full and equal participation of women in government and public institutions.¹⁵⁸

Full implementation of peace agreements

With respect to the peace processes in Colombia, Darfur, Libya and Mali, the Council called on the signatories of the relevant agreements to fully implement their security and political commitments.

Following the signing of the Final Peace Agreement between the Government and the FARC-EP in 2016, the Council welcomed the progress made in its implementation and noted that, in addition to the laying down of arms, the adoption of all agreed measures to ensure

¹⁵³ [S/PRST/2016/17](#), fourth and fifth paragraphs.

¹⁵⁴ [S/PRST/2017/9](#), sixth and ninth paragraphs.

¹⁵⁵ Resolution [2275 \(2016\)](#), paras. 8 and 9. See also [S/PRST/2016/13](#), second and sixth paragraphs. For further information, see part I, sect.3, "The situation in Somalia".

¹⁵⁶ [S/PRST/2017/3](#), first and second paragraphs.

¹⁵⁷ *Ibid.*, eighth and ninth paragraphs.

¹⁵⁸ [S/PRST/2017/8](#), ninth paragraph. For further information, see part I, sect. 9, "The situation in Côte d'Ivoire".

effective reincorporation and reconciliation, with the full participation of women, would be vital to securing lasting peace in Colombia.¹⁵⁹ Upon the completion of the first phase of the Agreement related to the cessation of hostilities and laying down of arms, the Council congratulated the parties and added that Colombia’s peace process retained the potential to set an example for the resolution of conflicts globally.¹⁶⁰

Under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan,” and in relation to Darfur, the Council encouraged all parties to the conflict to engage constructively with the African Union High-level Implementation Panel (AUHIP)-led mediation to implement the Roadmap Agreement signed in March 2016, providing for the cessation of hostilities, and on the Sudan Liberation Army/Abdul Wahid armed group to join the peace process without preconditions.¹⁶¹ The Council also urged the signatory parties to the Doha Document for Peace in Darfur to implement the agreement in full and the Government of Sudan to support an environment that is conducive to the participation of the opposition in the implementation of the National Dialogue recommendations.¹⁶²

After the signing of the Libyan Political Agreement in December 2015 which outlined the way forward for the holding of elections and the political transition, the Council urged the Government of National Accord and all Libyans to work towards the successful conclusion of this process and to respect the ceasefire.¹⁶³ The Council also strongly urged all Libyans to work together in a spirit of compromise and to engage constructively in the inclusive political process set out in the United Nations Action Plan of 20 September 2017, including through the meaningful participation of women.¹⁶⁴

In 2016, in connection with the situation in Mali, the Council urged the armed group signatories to the Agreement on Peace and Reconciliation in Mali to cease hostilities, strictly

¹⁵⁹ [S/PRST/2017/6](#), third and fifth paragraphs. For further information, see part I, sect. 17, “Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council ([S/2016/53](#))”.

¹⁶⁰ [S/PRST/2017/18](#), third paragraph.

¹⁶¹ Resolution [2363 \(2017\)](#), para. 23.

¹⁶² Resolution [2296 \(2016\)](#), para. 9; [2363 \(2017\)](#), para. 22.

¹⁶³ [S/PRST/2017/26](#), ninth and fifteenth paragraphs. For further information, see part I, sect. 14, “The situation in Libya”.

¹⁶⁴ [S/PRST/2017/19](#), fourth paragraph.

adhere to the ceasefire arrangements and resume dialogue on its implementation without delay.¹⁶⁵ In 2017, under the item entitled “Peace and security in Africa”, the Council urged the Government of Mali and the *Plateforme* and *Coordination* armed groups to fully and expeditiously deliver on their remaining obligations under the Agreement on the operationalization of interim administrations, progress in disarmament, demobilization and reintegration (DDR) and security sector reform and decentralization and in ensuring full and equal women’s participation.¹⁶⁶ The Council further underlined that engaging in hostilities in violation of the Agreement or obstructing its implementation, including by prolonged delay, constituted a basis for sanctions’ designations pursuant to resolution [2374 \(2017\)](#).¹⁶⁷

In addition, under the item entitled “The situation in the Middle East”, the Council stressed the obligation of Israel and the Syrian Arab Republic to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement on the Golan Heights and encouraged them to take advantage of the liaison functions of the United Nations Disengagement Force (UNDOF) to address issues of mutual concern.¹⁶⁸

Resolution of political crises and peaceful transfer of power

On the situations in the Democratic Republic of the Congo, Guinea-Bissau, Lebanon and the Gambia, the Council encouraged political actors in those countries to engage in dialogue to resolve the ongoing political and institutional crises and ensure the peaceful transition of power.

Regarding the situation concerning the Democratic Republic of the Congo, the Council expressed encouragement regarding the unanimous commitment of Congolese actors to continue inclusive discussions to reach a broad consensus towards free, fair, credible, inclusive, transparent, peaceful and timely presidential and legislative elections leading to a peaceful transfer of power.¹⁶⁹ In a presidential statement issued on 4 January 2017, the Council welcomed the signing of the “comprehensive and inclusive political agreement” by the Congolese political leaders on 31 December 2016, encouraged political parties which had not yet signed the

¹⁶⁵ [S/PRST/2016/16](#), first paragraph. For further information, see part I, sect. 15, “The situation in Mali”.

¹⁶⁶ Resolution [2391 \(2017\)](#), para. 25.

¹⁶⁷ *Ibid.*, para. 27.

¹⁶⁸ Resolutions [2294 \(2016\)](#), para. 2; [2330 \(2016\)](#), para. 2; [2361 \(2017\)](#), para. 2; [2394 \(2017\)](#), para. 2.

¹⁶⁹ [S/PRST/2016/18](#), fourth paragraph. For information, see part I, sect. 6, “The situation concerning the Democratic Republic of the Congo”.

agreement to do so, and expressed hope for a swift implementation of the agreement, allowing for the elections to take place within one year, leading to a peaceful transfer of power.¹⁷⁰

From a regional perspective, in connection with the item entitled “The situation in the Great Lakes region”, the Council called upon all signatories of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region to fully implement their commitments not to interfere in the affairs of neighbouring countries, support armed groups or harbour war criminals.¹⁷¹ The Council demanded that all groups operating in the Democratic Republic of the Congo to lay down their arms and called on regional States to cooperate in their disarmament and repatriation.¹⁷² The Council also called on Member States in the region to ensure peace and security through timely, peaceful, inclusive and credible elections and, noting the link between justice and conflict prevention, to ensure accountability for violations and abuses of international human rights law.¹⁷³

Under the item entitled “The situation in Guinea-Bissau”, the Council called on the President, Prime Minister, Speaker of Parliament and heads of political parties to bring political stability and on all relevant stakeholders to work together to address the root causes of instability.¹⁷⁴ In 2017, the Council endorsed the Conakry Agreement of 14 October 2016, based on the ECOWAS roadmap providing a framework for the resolution of the crisis, and called on political leaders to engage in genuine dialogue, including on the constitutional review, finding common ground and refraining from rhetoric and acts likely to undermine peace and national cohesion.¹⁷⁵

Underscoring its deepest concern over the two-year-long vacancy in the presidency of Lebanon and the resulting political paralysis, in connection with the situation in the Middle East, the Council called on all Lebanese parties, including the Parliament, to apply mechanisms provided for by the Constitution with regard to the presidential election and to engage in

¹⁷⁰ [S/PRST/2017/1](#), first, second and third paragraphs.

¹⁷¹ Resolution [2389 \(2017\)](#), paras. 1 and 6. For further information, see part I, sect. 5, “The situation in the Great Lakes region”.

¹⁷² Resolution [2389 \(2017\)](#), paras. 5, 8 and 9.

¹⁷³ *Ibid.*, paras. 12 and 13.

¹⁷⁴ Resolution [2267 \(2016\)](#), paras. 4 and 5. For further information, see part I, sect. 8 on “The situation in Guinea-Bissau”.

¹⁷⁵ [S/PRST/2017/17](#), third paragraph.

negotiating a compromise agreement with the aim of ending the crisis.¹⁷⁶ Further to the election of President Michel Aoun on 31 October 2016, the Council urged him and other Lebanese leaders to continue to work constructively to promote the country's stability by swiftly forming a government.¹⁷⁷ The Council also strongly called upon all parties to respect the cessation of hostilities and to cooperate with the Council and the Secretary-General to make tangible progress towards a permanent ceasefire and a long-term solution as envisioned in resolution [1701 \(2006\)](#).¹⁷⁸

In connection with the item entitled “Peace consolidation in West Africa,”¹⁷⁹ the Council addressed the political crisis in the Gambia by urging parties and stakeholders to respect the results of the 1 December 2016 elections and requested former President Yahya Jammeh to carry out a peaceful and orderly transfer of power to President-elect Adama Barrow in accordance with the Gambian constitution.¹⁸⁰ The Council further requested all stakeholders, within and outside the Gambia, to exercise restraint, respect the rule of law and ensure the peaceful transfer of power and stressed the duty of the Gambian defence and security forces to place themselves at the disposal of the democratically elected authorities.¹⁸¹

The Council welcomed and highlighted the importance of peaceful transitions following elections for sustainable peace in Haiti and Liberia and particularly in the context of the drawdown of United Nations peacekeeping operations.

In relation to the item entitled “The question concerning Haiti”, the Council welcomed the presidential elections and peaceful transfer of power in 2016 and 2017 and reaffirmed the need for dialogue and a peaceful resolution to help defuse tensions between competing groups and to address ongoing socioeconomic grievances in the country.¹⁸² Similarly, in connection with the situation in Liberia, the Council called upon all stakeholders to ensure that the October 2017 elections were free, fair credible and transparent, with the participation of women and that any

¹⁷⁶ [S/PRST/2016/10](#), third and fifth paragraphs.

¹⁷⁷ [S/PRST/2016/15](#), second paragraph.

¹⁷⁸ Resolution [2305 \(2016\)](#), paras. 6 and 9.

¹⁷⁹ For further information, see part I, sect. 12, “Peace consolidation in West Africa.”

¹⁸⁰ Resolution [2337 \(2017\)](#), paras. 1 and 7.

¹⁸¹ *Ibid.*, paras. 9 and 10.

¹⁸² [S/PRST/2017/20](#), third and fifth paragraphs. For further information, see part I, sect. 16, “The question concerning Haiti”.

dispute would be resolved peacefully through established mechanisms and in accordance with the law.¹⁸³ Furthermore, in the context of the termination of the mandate of the United Nations Mission in Liberia (UNMIL), scheduled for March 2018, the Council emphasized the importance of durable national capacities to sustain peace and expanded efforts by Liberian authorities to, inter alia, address root causes of conflict, reinvigorate reconciliation processes and promote women's active participation in peacebuilding.¹⁸⁴

Peace negotiations on longstanding disputes

Finally, the Council also addressed longstanding disputes and urged parties in Cyprus, Israel/Palestine, Sudan and South Sudan and Western Sahara to engage in peace talks in good faith.

Against the backdrop of the positive momentum in the negotiations, in connection with the situation in Cyprus, the Council encouraged Greek and Turkish Cypriot leaders to grasp the opportunity to secure a comprehensive settlement.¹⁸⁵ The Council further urged both sides to implement mutually-acceptable confidence-building measures and to continue to engage, as a matter of urgency, in consultations with the United Nations Peacekeeping Force in Cyprus (UNFICYP) on the demarcation of the buffer zone, and on the United Nations 1989-aide memoire, with a view to reaching early agreement on outstanding issues.¹⁸⁶

Under the item entitled “The situation in the Middle East, including the Palestinian question”, the Council stressed that the cessation of all Israeli settlement activities was essential for salvaging the two-State solution and called for affirmative steps to be taken to immediately reverse the negative trends on the ground that were imperilling it.¹⁸⁷ The Council also called on both parties to act in accordance with international law and their previous agreements and obligations, demonstrating a genuine commitment to the two-State solution and to exert

¹⁸³ [S/PRST/2017/11](#), fourth paragraph.

¹⁸⁴ *Ibid.*, second paragraph.

¹⁸⁵ Resolution [2338 \(2017\)](#), para. 1. For further information, see part I, sect. 21, “The situation in Cyprus”.

¹⁸⁶ Resolution [2263 \(2016\)](#), paras. 4 and 8; [2300 \(2016\)](#), paras. 5 and 9; [2338 \(2017\)](#), paras. 5 and 9.

¹⁸⁷ Resolution [2334 \(2016\)](#), para. 4. For further information, see part I, sect. 25, “The situation in the Middle East, including the Palestinian question.”

collective efforts to launch credible negotiations on all final status issues in the Middle East peace process.¹⁸⁸

Regarding the disputed Abyei Area, under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, the Council urged Sudan and South Sudan to resume direct negotiations in order to urgently reach a final settlement of the issue, to support community reconciliation, ensuring the involvement of women at all stages.¹⁸⁹ Expressing concern regarding the delays in the full operationalization of the Joint Border and Verification Mechanism, the Council called on the two parties to uphold their commitments under the border security agreements, including taking the necessary operational decisions on the Safe Demilitarized Border Zone and to make timely and effective use of the Joint Border Verification and Monitoring Mechanism.¹⁹⁰

In relation to the situation concerning Western Sahara, the Council called upon the Government of Morocco and the Polisario Front to resume negotiations without preconditions and in good faith, taking into account efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting, and mutually acceptable political solution.¹⁹¹ The Council further invited Member States to lend appropriate assistance to the talks.¹⁹²

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

While Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, the Charter does not specifically define the role of the Secretary-General in relation to matters of peace and security. The work of the Council regarding conflict prevention and the peaceful settlement of disputes has, however, required the involvement of the Secretary-General in all relevant aspects of that agenda.

¹⁸⁸ Resolution [2334 \(2016\)](#), paras. 7 and 8.

¹⁸⁹ Resolutions [2352 \(2017\)](#), paras. 4 and 16; [2386 \(2017\)](#), paras. 6 and 16.

¹⁹⁰ Resolutions [2352\(2017\)](#), paras. 6 and 7.

¹⁹¹ Resolutions [2285 \(2016\)](#), para. 9 and [2351 \(2017\)](#), para. 8. For further information, see part I, sect. 1, “The situation concerning Western Sahara”.

¹⁹² Resolution [2351 \(2017\)](#), para. 9.

During the period under review, the Council recognized the work of the Secretary-General in connection with the pacific settlement of disputes and particularly in the area of conflict prevention and sustaining peace. The Council acknowledged the use of the good offices and mediation role of the Secretary-General, as well as those of his special representatives and envoys, in calling for the cessation of hostilities and the implementation of permanent ceasefires, the implementation of inclusive reconciliation processes and the full implementation of peace agreements, the peaceful transfer of power and the resolution of political and institutional crises, the resolution of protracted conflicts, and addressing cross-border challenges.

Good offices to end violence

With respect to the conflicts in Myanmar, the Syrian Arab Republic and Yemen, the Council requested the Secretary-General to utilize his good offices to put an end to the violence.

In connection with the situation in Myanmar, having called on for an end to the fighting and for the Government to assume its responsibility to protect civilians, the Council requested the Secretary-General to continue to provide his good offices and to pursue his discussions with the Government, involving all relevant stakeholders, to offer assistance to the Government in this regard and encouraged him to consider, as appropriate, appointing a Special Advisor on Myanmar.¹⁹³

With regard to the situation in the Middle East and in relation to the conflict in the Syrian Arab Republic specifically, the Council requested the Secretary-General, through his good offices and the Special Envoy for Syria, to resume the formal negotiations between the Government and the opposition, under the auspices of the United Nations.¹⁹⁴

Regarding Yemen, in April 2016, the Council welcomed the launch of “Yemeni-Yemeni peace talks”, hosted by State of Kuwait, led and facilitated by the Special Envoy of the Secretary-General for Yemen.¹⁹⁵ In 2017, the Council expressed its continued support for the

¹⁹³ [S/PRST/2017/22](#), twentieth paragraph.

¹⁹⁴ Resolution [2268 \(2016\)](#), para. 7.

¹⁹⁵ [S/PRST/2016/5](#), third paragraph.

tireless efforts of the Special Envoy to bring the parties to negotiations to swiftly reach a final and comprehensive agreement to end the conflict.¹⁹⁶

Good offices in support of political processes

The Council further highlighted the role of the Secretary-General in supporting inclusive national reconciliation processes in Burundi, Darfur, Guinea-Bissau, Libya and Somalia.

In connection with the situation in Burundi, the Council requested the Secretary-General, through the good offices of his Special Adviser, to support the inter-Burundian dialogue in coordination with the East African Community-led and African Union-endorsed Mediator and Facilitator and to provide all necessary technical and substantive support to the mediation.¹⁹⁷ The Council also requested the Secretary-General to establish a United Nations police officers component in Burundi to monitor the security situation and support the monitoring of human rights.¹⁹⁸

In relation to Guinea-Bissau, the Council commended the good offices role of the Special Representative of the Secretary-General to support the Government and invited the Secretary-General to reinforce the capacities of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) in that regard and to continue strengthening the coordination of international support.¹⁹⁹ Similarly, in connection with the situation in Somalia, the Council underscored the importance of support of the United Nations Assistance Mission in Somalia (UNSOM) to the political process, including the provision of good offices for the peace and reconciliation process, the completion of state formation and constitution review and free, fair and transparent electoral process in 2016 and universal elections by 2020.²⁰⁰

In connection with the situation in Libya, in the context of the Libyan Peace Agreement, the Council endorsed the United Nations Action Plan for an inclusive Libyan-owned political process presented by the Special Representative of the Secretary-General on 20 September 2017

¹⁹⁶ [S/PRST/2017/7](#), fifth paragraph.

¹⁹⁷ Resolutions [2279 \(2016\)](#), para. 7 and [2303 \(2016\)](#), para. 7.

¹⁹⁸ Resolution [2303 \(2016\)](#), para. 13.

¹⁹⁹ Resolutions [2267 \(2016\)](#), para. 17 and [2343 \(2017\)](#), para. 20.

²⁰⁰ Resolution [2275 \(2016\)](#), paras. 2 and 8. See also resolution [2358 \(2017\)](#), para. 3.

and stressed that all initiatives aimed at strengthening political dialogue in the country should be consolidated under the leadership of the United Nations as called for by the Secretary-General.²⁰¹

As part of its consideration of the item entitled “Reports of the Secretary-General on the Sudan and South Sudan” and in relation to the situation in Darfur, the Council commended the efforts of the Joint Special Representative of the African Union and United Nations for Darfur and Head of the African Union-United Nations Hybrid Operation in Darfur (UNAMID)/Joint Chief Mediator to revitalise the peace process and to increase its inclusiveness, including through renewed engagement with the non-signatory armed movements and welcomed his strengthened coordination with the African Union High-level Implementation Panel (AUHIP) and the Special Envoy of the Secretary-General for Sudan and South Sudan in synchronising their mediation efforts.²⁰²

Good offices in support of the implementation of peace agreements

Concerning the situation in Mali, the Council emphasized the central role of the Special Representative of the Secretary-General for Mali in supporting and overseeing the implementation of the Agreement on Peace and Reconciliation and urged the Government to engage with the Secretary-General, through his Special Representative, to establish concrete benchmarks to assess its implementation.²⁰³

In relation to the dispute over the Abyei Area, under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, the Council encouraged the AUHIP and the Special Envoy of the Secretary-General for Sudan and South Sudan to continue coordinating efforts towards calling on Sudan and South Sudan to fully implement the 20 June 2011 Agreement.²⁰⁴

Good offices in support of the resolution of political and institutional crises

The Council also stressed the role of the Secretary-General in supporting the resolution of political and institutional crisis in the Democratic Republic of the Congo, the Gambia and

²⁰¹ [S/PRST/2017/19](#), second and seventh paragraphs.

²⁰² Resolution [2296 \(2016\)](#), para. 8.

²⁰³ [S/PRST/2016/16](#), fifth and sixth paragraphs.

²⁰⁴ Resolutions [2352 \(2017\)](#), para. 4 and [2386 \(2017\)](#), para. 6.

Lebanon. On the situation in the Democratic Republic of the Congo,” following the signing of the December 2016 Agreement aimed at resolving the political crisis in the country, the Council reiterated its support to the efforts of the Special Representative of the Secretary-General, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the African Union and regional organizations in helping ensure its full implementation.²⁰⁵ Under the situation in the Great Lakes region item, the Council further called on the United Nations Special Envoy for the Great Lakes region to continue his regional and international engagement in furtherance of peace and stability in the Democratic Republic of the Congo and the region, including through the promotion of timely, credible and inclusive national elections, regional dialogue and by continuing, in close coordination with MONUSCO, to lead, coordinate and assess the implementation of the Peace and Security Framework.²⁰⁶ In relation to the political crisis in the Gambia, under the item entitled “Peace consolidation in West Africa” , the Council requested the Secretary-General, including through his Special Representative for West Africa and the Sahel, to facilitate political dialogue between stakeholders in the country to ensure a peaceful transition of power in the Gambia and to provide technical assistance to the ECOWAS mediation where required.²⁰⁷

Under the situation in the Middle East and regarding Lebanon specifically, the Council encouraged the Special Coordinator for Lebanon, in the context of her good offices role and in close coordination with the International Support Group members, to conduct intensified contacts with Lebanon’s partners and to engage key national and regional stakeholders with the aim of helping Lebanon towards a solution to the presidential vacancy.²⁰⁸

Good offices in support of the resolution of protracted disputes

The Council also referred to the good offices role of the Secretary-General for the resolution of long-standing disputes. In connection with Western Sahara, the Council affirmed its full support for the commitment of the Secretary-General and his Personal Envoy to relaunch the

²⁰⁵ [S/PRST/2017/12](#), eleventh paragraph.

²⁰⁶ Resolution [2389 \(2017\)](#), para. 22.

²⁰⁷ [S/PRST/2016/19](#), eighth paragraph and resolution [2337 \(2017\)](#), para. 12.

²⁰⁸ [S/PRST/2016/10](#), fourteenth paragraph.

negotiating process with the aim of reaching a mutually acceptable political solution.²⁰⁹

Similarly, on the situation in Cyprus, the Council requested the Secretary-General to intensify transition planning in relation to a settlement between the Greek and Turkish Cypriot parties, guided by developments in negotiations, and encouraged both sides to engage with each other and with UNFICYP and the United Nations Good Offices mission on issues related to the implementation of a settlement.²¹⁰

Good offices to address cross-border challenges

Concerning the Sahel, under the item entitled “Peace consolidation in West Africa,” the Council expressed full support to the Special Representative of the Secretary-General for West Africa and looked forward to the enhancing of ongoing activities undertaken by the United Nations Office for West Africa and Sahel (UNOWAS) in the areas of conflict prevention, mediation and good offices, sub-regional and regional cooperation to address cross-border and cross-cutting threats to peace and security, the implementation of the United Nations Integrated Strategy for the Sahel, as well as the promotion of good governance, respect for the rule of law and human rights, and gender mainstreaming.²¹¹

D. Decisions involving regional arrangements or agencies

During the period under review, pursuant to Article 52 of the Charter, the Council expressed support for the crucial role of regional and sub-regional organizations and other arrangements in the pacific settlement of disputes, encouraged them to continue with these efforts and to enhance their cooperation and coordination with the United Nations in this regard. The Council’s decisions regarding joint or parallel efforts undertaken by the Council and regional organizations, arrangements or agencies in the pacific settlement of disputes during the period under review are covered in part VIII.

²⁰⁹ Resolution [2351 \(2017\)](#), para. 7. See also resolution [2285 \(2016\)](#), para. 8;

²¹⁰ Resolutions [2300 \(2016\)](#), para. 4; [2338 \(2017\)](#), para. 4.

²¹¹ [S/PRST/2017/2](#), third paragraph; [S/PRST/2017/10](#), second paragraph.

IV. Discussion on the interpretation or application of the provisions of Chapter VI of the Charter

Note

Section IV features the main discussions in the Security Council during 2016 and 2017 with regard to the interpretation of specific provisions of Chapter VI of the Charter concerning the role of the Council and the Secretary-General in the peaceful settlement of disputes. It excludes those that concern regional organizations, which are covered in part VIII.

During the period under review, explicit references were made to Article 33,²¹² Article 36,²¹³ Article 99,²¹⁴ as well as to Chapter VI²¹⁵ of the Charter during deliberations, but in most

²¹² In connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 17 (Ukraine), p. 37 (Viet Nam), p. 56 (Kuwait) and p. 89 (Netherlands); [S/PV.7857](#), p. 52 (Viet Nam) and p. 70 (Panama); [S/PV.7886](#), p. 53 (Venezuela (Bolivarian Republic of)); [S/PV.8144](#), p. 44 (Qatar); in connection with the implementation of the note by the President of the Security Council ([S/2010/507](#)), see [S/PV.7633](#), p. 3 (Venezuela (Bolivarian Republic of)); in connection with the situation in Afghanistan, see [S/PV.7722](#), p. 6 (Afghanistan); in connection with peace building and sustaining peace, see [S/PV.7750](#), p. 14 (Senegal); in connection with the situation in Somalia, see [S/PV.8099](#), p. 13 (Djibouti).

²¹³ In connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 10 (Egypt).

²¹⁴ In connection with the protection of civilians in armed conflict, see [S/PV.7606](#), p. 42 (Luxembourg); [S/PV.7951](#), p. 8 (Deputy Executive Director for Advocacy of Human Rights Watch) and p. 11 (Ukraine); in connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 3 (Secretary-General), p. 70 (United Arab Emirates) and p. 82 (Costa Rica); [S/PV.7857](#), p. 7 (Kazakhstan), p. 11 (United States), p. 13 (France), p. 16 (Japan), p. 18 (Ukraine), p. 32 (Netherlands), p. 45 (Lebanon), p. 47 (European Union), p. 50 (Australia), p. 72 (Kuwait) and p. 79 (Portugal); [S/PV.7886](#), p. 14 (Ukraine), p. 56 (Australia) and p. 59 (New Zealand); [S/PV.7926](#), p. 8 (Kazakhstan); [S/PV.8144](#), p. 21 (Italy) and p. 43 (Ecuador); in connection with the implementation of the note by the President of the Security Council ([S/2010/507](#)), see [S/PV.7740](#), p. 25 (Australia) and p. 35 (Belgium); and in connection with United Nations peacekeeping operations, see [S/PV.8051](#), p. 12 (Ukraine).

²¹⁵ In connection with the protection of civilians in armed conflict, see [S/PV.7606](#), p. 4 (Deputy Secretary-General); in connection with the implementation of the note by the President of the Security Council ([S/2010/507](#)), see [S/PV.7616](#), p. 10 (Venezuela (Bolivarian Republic of)); [S/PV.7766](#), p. 8 (Venezuela (Bolivarian Republic of)); in connection with general issues relating to sanctions, see [S/PV.7620](#), p. 24 (Iran (Islamic Republic of)); [S/PV.8018](#), p. 9 (Bolivia (Plurinational State of)); in connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 14 (Senegal), p. 51 (Colombia), p. 53 (Italy), p. 59 (Pakistan), p. 66 (Morocco), p. 70 (United Arab Emirates), p. 72 (Thailand), p. 75 (Nigeria), p. 77 (Tunisia) and p. 83 (Turkey); [S/PV.7653](#), p. 43 (Italy); [S/PV.7857](#), p. 4 (The Secretary-General), p. 5 (Sweden), p. 15 (United Kingdom), p. 40 (Colombia), p. 51 (Canada), p. 56 (Indonesia), p. 72 (Kuwait), p. 77 (United Arab Emirates), p. 81 (Slovenia), p. 83 (Morocco); [S/PV.7886](#), p. 14, (Ukraine) and p. 53 (Venezuela (Bolivarian Republic of), on behalf of the Movement of Non-Aligned Countries (NAM)); in connection with reports of the Secretary-General on the Sudan and South Sudan, see [S/PV.7691](#), p. 2 (Russian Federation); in connection with the non-proliferation of weapons of mass destruction, see [S/PV.7837](#), p. 2

cases, this did not give rise to a constitutional discussion. No explicit references were made to Articles 37 or 38 of the Charter.

The section is divided into the following three subsections: A. Reference to peaceful means of settlement in the light of Article 33 of the Charter; B. Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII; C. Utilization of Article 35 by Member States; and D. Utilization of Article 99 by the Secretary-General for the peaceful settlement of disputes, featuring cases with relevant constitutional discussions during the period under review.

A. Reference to peaceful means of settlement in the light of Article 33 of the Charter

Article 33 of the Charter stipulates that any dispute that is likely to endanger the maintenance of international peace and security should first be addressed through negotiation, mediation or other peaceful means, and states that the Council can call on the parties to use such means to settle their disputes. During the period under review, discussions with respect to Article 33 were held in connection with the following items, “Maintenance of international peace and security” (case 5) and “Women and peace and security” (case 6).

Case 5

Maintenance of international peace and security

On 15 February 2016, the Council convened its 7621st meeting under the item “Maintenance of international peace and security” and the sub-item entitled “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security” further to the concept note circulated by Venezuela which held the Presidency during that month.²¹⁶ Opening the high-level debate, the

(Spain), p. 3 (Deputy Secretary-General); in connection with United Nations peacekeeping operations, see [S/PV.7947](#), p. 2 (Under-Secretary-General for Peacekeeping Operations), pp. 4-7 (Head of Mission and Force Commander of the United Nations Disengagement Observer Force), p. 7 (Force Commander of the United Nations Stabilization Mission in the Central African Republic); in connection with the Security Council mission to Haiti (22 to 24 June 2017), see [S/PV.7994](#), pp. 2-3 (Bolivia (Plurinational State of)).

²¹⁶ Letter dated 1 February 2016 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the Secretary-General ([S/2016/103](#)).

Secretary-General underlined that the primary responsibility for preventing conflict and protecting human rights lies with Member States.²¹⁷ He added that the Council had many tools with which to encourage and seek to secure the peaceful resolution of disputes before they escalate, but that ultimately it was its unity which was the crucial factor.²¹⁸

In the ensuing discussion, many Council members and speakers invited under rules 37 and 39 of the provisional rules of procedure cited the obligation of Member States under the Charter, including under Chapter VI and Article 33, for the peaceful settlement of disputes.²¹⁹ Several speakers made reference to the tools provided to the Council for the peaceful settlement of disputes under Article 33 of the Charter, namely negotiation, mediation, arbitration, reconciliation and judicial settlement.²²⁰ The representative of Egypt referred to the Council's use of good offices of the Secretary-general, the gathering of information from fact-finding committees, requesting advisory opinions of the International Court of Justice and referring legal disputes to the Court under Article 36 (3) of the Charter.²²¹ The representatives of Japan and the Kingdom of the Netherlands called for more Member States to accept the Court's compulsory jurisdiction.²²² The representative of the Republic of Senegal noted, given the strong regional dimension of most conflicts, the need to place the action of regional organizations at the heart of peace efforts.²²³ The representative of Hungary emphasized the importance of conflict prevention and stated that the Council should use all of the elements in its toolbox, including means related to the peaceful settlement of disputes, cooperation with regional organizations, the adoption of smart targeted sanctions and the referral of situations to the International Criminal Court.²²⁴

²¹⁷ [S/PV.7621](#), p. 3.

²¹⁸ *Ibid.*

²¹⁹ *Ibid.*, p. 4 (Venezuela (Bolivarian Republic of)), p. 7 (Angola), p. 10 (Egypt), pp. 14-15 (Senegal), p. 17 (Ukraine), p. 21 (Uruguay), p. 24 (Japan), p. 25 (China), p. 28 (Russian Federation), p. 33 (Iran (Islamic Republic of), on behalf of NAM), p. 34 (Brazil), pp. 37-38 (Viet Nam), p. 38 (Sweden), p. 39 (Syrian Arab Republic), p. 48 (Kazakhstan), p. 50 (Colombia), p. 55 (Kuwait), p. 58 (Algeria), p. 60 (Bangladesh), p. 66 (Morocco), p. 69 (Ecuador), p. 70 (United Arab Emirates), p. 72 (Thailand), p. 73 (Poland), p. 73 (Maldives), p. 75 (Nigeria), p. 78 (Peru), p. 80 (Guyana) and p. 89 (Netherlands).

²²⁰ *Ibid.*, p. 9 (Spain), p. 27 (United States), p. 38 (Sweden), p. 60 (Bangladesh), p. 70 (United Arab Emirates) and p. 73 (Poland).

²²¹ *Ibid.*, p. 10.

²²² *Ibid.*, p. 24 (Japan) and p. 89 (Netherlands).

²²³ *Ibid.*, p. 15.

²²⁴ *Ibid.*, p. 42 (Hungary).

Under the same item and further to the concept note circulated by Sweden which held the Presidency during that month,²²⁵ the Council held its 7857th meeting on 10 January 2017, a high level open debate in relation to the sub-item “Conflict prevention and sustaining peace”. Presenting his vision for the reform of the peace and security architecture of the United Nations Secretariat, the Secretary-General stated that the international community must commit to a surge in diplomacy for peace, in partnership with regional organizations.²²⁶ Taking note of the intention of the Secretariat to enhance its mediation capacity, he asked the Security Council to make greater use of the options laid out in Chapter VI of the Charter and expressed his readiness to support the Council through his own good offices and personal engagement.²²⁷

In subsequent remarks, the representative of Socialist Republic of Viet Nam noted the “urgent need to put conflict prevention and dispute settlement at the core of the Organization’s work, as provided for in Article 33”, and that in order to achieve such goals, the Security Council should continue to promote robust leadership and actively assume its primary responsibility to maintain international peace and security.²²⁸ Several Council members and Member States invited under rule 37 of the provisional rules of procedure called for greater unity in the Council to enable it to utilize all of the conflict prevention tools at its disposal such as negotiation, mediation, conciliation or judicial settlement.²²⁹ The representative of the Republic of Korea stated that the Council should make better use of its investigatory tools under Article 34 of the Charter.²³⁰ The United States maintained that identifying who is responsible for abuses and violations of the Charter, in public, in the Council, is an antidote to impunity and may have some deterrent effect.²³¹

²²⁵ Letter dated 4 January 2017 from the Permanent Representative of Sweden to the United Nations addressed to the Secretary-General ([S/2017/6](#)).

²²⁶ [S/PV.7857](#), p. 4.

²²⁷ *Ibid.*

²²⁸ *Ibid.*, pp. 51-52.

²²⁹ *Ibid.*, p. 5 (Sweden), p. 15 (United Kingdom), p. 24 (Senegal), p. 36 (Finland), p. 48 (Ecuador), p. 51 (Canada), p. 70 (Panama), p. 77 (United Arab Emirates) and p. 89 (Djibouti).

²³⁰ *Ibid.*, p. 34.

²³¹ *Ibid.*, p. 11.

Other speakers also drew attention to the preventative role of sanctions and peacekeeping operations,²³² cooperation with regional and sub-regional organizations,²³³ greater inclusion and participation of women in peace processes,²³⁴ and justice and reconciliation.²³⁵ The representative of the United States argued that the important principle of State sovereignty cannot keep the Council and the Secretary-General from taking necessary action to respond to urgent, life-threatening crises.²³⁶ Similarly, the representative of Norway added that preventing conflict and sustaining peace, with the assistance of the international community, does not undermine State sovereignty but strengthen it.²³⁷ In contrast, the representative of Bolivia stressed that the Council's work should be carried out with commitment and respect for the sovereignty, independence, unity, territorial integrity, non-interference in countries' internal affairs and equality of all States.²³⁸

At its 8144th meeting on 20 December 2017, the Council held a meeting under the same item to discuss the sub-item entitled "Addressing complex contemporary challenges to international peace and security" pursuant to a concept note circulated by Japan which held the Presidency of the Council during that month.²³⁹ In his remarks, the representative of Japan underscored that, in order to more effectively address complex challenges facing international peace and security, the Council needed to increase its focus and effectiveness throughout the whole conflict cycle.²⁴⁰ In this regard, the representative of Sweden argued that, in order to place conflict prevention at the core of the Council's actions and to address conflict at its early stages, the United Nations system needed to enhance its joint analysis and integrated strategic planning capabilities.²⁴¹

²³² Ibid., p. 13 (France).

²³³ Ibid., p. 7 (Italy), p. 9 (Ethiopia), p. 14 (France), p. 15 (United Kingdom), p. 18 (Ukraine), p. 19 (Uruguay), p. 21 (Russian Federation) and p. 25 (Senegal),

²³⁴ Ibid., p. 36 (Finland) and 70 (Panama).

²³⁵ Ibid., p. 81 (Slovenia).

²³⁶ Ibid., p. 10.

²³⁷ Ibid., p. 42.

²³⁸ Ibid., p. 26.

²³⁹ Letter dated 1 December 2017 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General ([S/2017/1016](#)).

²⁴⁰ [S/PV.8144](#), p. 4.

²⁴¹ Ibid., p. 8.

The representatives of Kazakhstan and Uruguay underscored the importance of mediation as part of comprehensive approaches to sustaining peace.²⁴² The representatives of Ecuador and Senegal commended the establishment of the High-level Advisory Board on Mediation by the Secretary-General.²⁴³ The representative of Bolivia opined that the implementation of Chapter VII for settling disputes must not be considered until those under Chapter VI and Chapter VIII have been exhausted, and must be implemented only as a last resort.²⁴⁴ The representative of Azerbaijan maintained that, apart from preventive diplomacy efforts of disputes and conflicts, the most effective deterrent was ensuring a speedy end to impunity.²⁴⁵

Case 6

Women and peace and security

On 28 March 2016, the Council held its 7658th meeting under the item entitled “Women and peace and security”. The focus of the discussion was the sub-item entitled “The role of women in conflict prevention and resolution in Africa” further to a concept note circulated by Angola which held the Presidency during that month.²⁴⁶ The representative of Angola stated that all three major peace and security reviews launched by the Secretary-General in 2015, including the global study on the implementation of resolution [1325 \(2000\)](#), stressed the value added of the women and peace and security agenda to conflict prevention and the potential for early warning and gender-sensitive analysis by identifying the drivers of conflict. She added that women’s participation in prevention could take on different forms, including direct involvement in formal peace negotiations, consultative commissions, public policies, decision-making, national dialogues, peacebuilding and comprehensive reforms, leading to democratization processes.²⁴⁷

Council members and speakers invited under rules 37 and 39 of the provisional rules of procedure concurred regarding the clear connection between the participation of women and the

²⁴² Ibid., p. 13 (Kazakhstan) and p. 14 (Uruguay).

²⁴³ Ibid., p. 16 (Senegal) and p. 43 (Ecuador).

²⁴⁴ Ibid., p. 9.

²⁴⁵ Ibid., p. 45.

²⁴⁶ [S/2016/219](#).

²⁴⁷ [S/PV.7658](#), p. 11.

sustainability of peace processes.²⁴⁸ The representative of Malaysia highlighted the need for greater women’s involvement in enhancing conflict prevention and resolution, peacebuilding, political participation, early warning mechanisms and building long-term resilience against conflict.²⁴⁹ The representative of China, called for encouraging women to become important players in mediation and to fully leverage their advantage in advocating for a culture of peace.²⁵⁰ The representative of France noted that the decision-making power of women in peace processes must be enhanced by facilitating the participation of civil society.²⁵¹ The representative of Senegal stated that effective women’s participation in the peace and security agenda required “synergetic action” among the Security Council and the other members of the United Nations, including through the Informal Expert Group on Women and Peace and Security and the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.²⁵² Many speakers also took note of the various African regional efforts in this context, including at the level of the African Union through its Gender, Peace and Security Programme and in the appointment of a Special Envoy on Women, Peace and Security.²⁵³

On 27 October 2017, at its 8079th meeting, the Council held a high-level open debate under the sub-item “Realizing the promise of the women and peace and security agenda: ensuring its full implementation, including the participation of women” further to a concept note circulated by France which held the Presidency for the month.²⁵⁴ Opening the high-level meeting, the Chef de Cabinet referred to the plan of the Secretary-General to achieve gender parity across the United Nations and efforts to increase the pool of women mediators, including through the High-Level Advisory Board on Mediation.²⁵⁵

²⁴⁸ Ibid., p. 4 (Assistant Secretary-General for Political Affairs), p. 11 (Angola); p. 12 (United Kingdom), p. 13 (United States), p. 15 (Uruguay), p. 17 (China), p. 18 (Ukraine), pp. 19-20 (New Zealand), p. 28 (Spain), pp. 34-35 (Sweden), p. 36 (Australia), p. 44 (Iran (Islamic Republic of), on behalf of the NAM) and p. 45 (Morocco).

²⁴⁹ Ibid., p. 20.

²⁵⁰ Ibid., p. 17 (China), p. 20 (New Zealand), p. 35 (Sweden), p. 45 (Belgium) and p. 53 (Namibia).

²⁵¹ Ibid., p. 26.

²⁵² Ibid.

²⁵³ Ibid. p. 20 (New Zealand), p. 22 (Senegal), p. 26 (France), p. 27 (Russian Federation), p. 28 (Spain), p. 30 (Kazakhstan), p. 32 (Brazil), p. 35 (European Union), p. 40 (Ethiopia), p. 41 (Israel), p. 43 (Canada), p. 44 (Iran (Islamic Republic of), on behalf of the NAM), p. 52 (Algeria), p. 54 (Thailand) and pp. 56-57 (Indonesia).

²⁵⁴ [S/2017/889](#).

²⁵⁵ [S/PV. 8079](#), p. 3.

The representative of France recalled that the participation of women in political processes and in conflict prevention remained “grossly inadequate”.²⁵⁶ The majority of speakers reiterated that the participation of women in peace processes, as well as in early warning, negotiation, conflict prevention, resolution, reconciliation and peacebuilding was an underutilized tool that could contribute to more comprehensive and sustainable peace agreements.²⁵⁷ The representative of Switzerland commended the General Assembly resolution [70/304](#) of 26 September 2016 on the role of mediation and its call on Member States to promote the equal, full and effective participation of women in all forums and at all levels of the peaceful settlement of disputes and conflict prevention and resolution.²⁵⁸ For that purpose, several speakers highlighted the importance of creating the necessary political space, empowering civil society and capacity-building.²⁵⁹ A number of speakers also cited the joint high-level mission led by the Deputy Secretary-General with the African Union to the Democratic Republic of the Congo and Nigeria in July 2017 as a good example of advancing the agenda in conflict and post-conflict areas.²⁶⁰ Others reiterated the importance of gender parity in United Nations peacekeeping operations and called on the Council to ensure that the women and peace and security agenda remains a priority in this context.²⁶¹

²⁵⁶ *Ibid.*, p. 29.

²⁵⁷ *Ibid.*, p. 11 (Ukraine), p. 13 (Sweden), p. 14 (United Kingdom), pp. 15-16 (Bolivia (Plurinational State of)), p. 17 (Senegal), p. 18 (Italy), p. 20 (United States), p. 22 (Ethiopia), p. 25 (Japan), p. 30 (France), p. 35 (Panama, on behalf of the Human Security Network), p. 36 (Liechtenstein), p. 41 (Canada, on behalf of the Group of Friends of Women, Peace and Security), p. 43 (Iran (Islamic Republic of)), p. 52 (Belgium), p. 57 (Morocco), p. 75 (Netherlands) and p. 96 (Portugal) (consider adding).

²⁵⁸ *Ibid.*, p. 59.

²⁵⁹ *Ibid.*, p. 14 (Sweden), p. 17 (Senegal), p. 23 (Ethiopia), p. 27 (Kazakhstan), p. 36 (Panama, on behalf of the Human Security Network) and p. 59 (Switzerland).

²⁶⁰ *Ibid.*, p. 14 (Sweden), p. 21 (Egypt), p. 22 (Ethiopia) and p. 27 (Kazakhstan).

²⁶¹ *Ibid.*, p. 13 (Sweden), pp. 14-15 (United Kingdom), p. 20 (United States), p. 21 (Egypt), p. 23 (Russian Federation), p. 26 (Japan), p. 26 (Kazakhstan), p. 29 (Uruguay), p. 34 (Germany), p. 35 (Guatemala), p. 39 (Nepal), pp. 41-42 (Canada, on behalf of the Group of Friends of Women, Peace and Security), p. 48 (Brazil), p. 52 (Belgium), p. 56 (Peru), p. 57 (Argentina), p. 62 (Lithuania, on behalf of Estonia, Latvia and Lithuania) and p. 63 (Israel).

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

During the period under review, some discussions in the Council touched upon the distinction between Chapter VI and Chapter VII of the Charter. This was the case in connection with the situation concerning Haiti as described in further detail below (case 7).

Case 7

The question concerning Haiti

At the 7924th meeting held on 13 April 2017, by resolution [2350 \(2017\)](#), acting under Chapter VII of the Charter, the Council renewed the mandate of the United Nations Stabilization Mission in Haiti (MINUSTAH) for a final period of six months until 15 October 2017 and established the United Nations Mission for Justice Support in Haiti (MINUJUSTH). Whilst the resolution was adopted unanimously, the representatives of Bolivia, China and the Russian Federation questioned the application of Chapter VII in the context of an improved situation in Haiti, which had been recognized by the Council.²⁶² In particular, the representative of the Russian Federation affirmed that the mandate of the Mission was not clear. On the one hand, the Mission was to carry out the monitoring of human rights by itself or in support of the Government and, on the other, the decision was made in line with Chapter VII, which implied the use of force. He questioned whether in spite of the improving situation in Haiti, the violations of human rights had become a threat to international peace and security; only case in which it could become a situation for consideration for the Council. He further recalled that the Blue Helmets were in Haiti because of issues unrelated to human rights.²⁶³ The representative of China added that the underlying tenet of Chapter VII was the maintenance of international peace and security, which did not involve human rights. He further hoped that the Council would stay united in supporting the withdrawal of MINUSTAH and continuing to promote stability and

²⁶² [S/PV.7924](#), p. 3 (Russian Federation), p. 5 (Bolivia (Plurinational State of)) and p. 7 (China).

²⁶³ *Ibid.*, p. 3.

development.²⁶⁴ The representative of Bolivia argued that the reference to Chapter VII did not properly reflect the reality in the country and that the language of resolutions needed to be tailored to the different realities.²⁶⁵

During the Council's 8005th meeting on 18 July 2017, the representative of Bolivia expressed support for Haiti's request to reclassify MINUJUSTH under Chapter VI as it was conveyed by the President during the Council's visit in June 2017. He further emphasized the need to change the mandate of the new mission under Chapter VI, especially as there was no threat to international peace and security.²⁶⁶ Participating in the meeting under rule 37 of the provisional rules of procedure, the representative of Brazil opined that the fact that MINUJUSTH had been kept under Chapter VII failed to recognize the significant progress that had been achieved in Haiti during MINUSTAH's 13 years of operation.²⁶⁷

C. Utilization of Article 35 by a Member State

Article 35 of the Charter provides that any Member of the United Nations may bring any dispute, or any situation which might lead to international friction or give rise to a dispute, to the attention of the Security Council or of the General Assembly. Implicit references to the decision of the Government of Colombia to refer the matter of the peace process with the FARC-EP to the Council was discussed under the item "Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council ([S/2016/53](#))", as described in case 8 below.

²⁶⁴ *Ibid.*, p. 7.

²⁶⁵ *Ibid.*, p. 5.

²⁶⁶ [S/PV.8005](#), p. 15.

²⁶⁷ *Ibid.*, p. 21.

Case 8

Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council ([S/2016/53](#))

At the Council's 7609th meeting held on 25 January 2016, under the item entitled "Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council ([S/2016/53](#))", the Council unanimously adopted resolution [2261 \(2016\)](#) establishing the United Nations Mission in Colombia as the international component in the ceasefire and cessation of hostilities agreement signed between the Government of Colombia and the FARC-EP. While acknowledging that a decision of a State to refer a situation concerning its own negotiated peace agreement to the Council was uncommon, the representatives of France, New Zealand and the United Kingdom welcomed the decision of Colombia to do so.²⁶⁸ The United Kingdom added that this was exactly the sort of role the United Nations should be playing, namely, supporting conflict prevention and conflict resolution alongside others, including members of the Community of Latin American and Caribbean States (CELAC).²⁶⁹ The representative of Ukraine opined that the Colombian initiative to engage the United Nations would help bring stability to the region and that the experience should be followed and replicated elsewhere.²⁷⁰ The representative of China expressed support for the role of the United Nations in the peace process in accordance with the needs of the Colombian Government and respecting its sovereignty, independence and territorial integrity.²⁷¹

Concluding the meeting, the Foreign Minister of Colombia expressed the view that the Council's decision to support the Colombian peace process was a demonstration of its commitment to the peaceful settlement of disputes and an opportunity for the United Nations

²⁶⁸ [S/PV.7609](#), p. 2 (United Kingdom), p. 6 (France) and p. 7 (New Zealand).

²⁶⁹ *Ibid.*, p. 2.

²⁷⁰ *Ibid.*, p. 8.

²⁷¹ *Ibid.*, p. 6.

and the international community to enjoy the success of a national-led negotiation and dialogue process.²⁷²

D. Utilization of Article 99 by the Secretary-General

Article 99 of the Charter stipulates that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. In the discussions of the Council presented below, Member States encouraged the Secretary-General to fully exercise his power under Article 99 and to strengthen the effectiveness of his good offices. References to the multiple tools available to the Secretary-General under Article 99 were discussed in connection with the item entitled “Maintenance of international peace and security”, as described in cases 9 and 10 below.

Case 9

Maintenance of international peace and security

During the Council’s 7621st meeting on 15 February 2016, in the context of the open debate on the sub-item entitled “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”, the Secretary-General recalled that Article 99 of the Charter was formally invoked only rarely but that did not mean it was no longer operative or relevant or that it could not be invoked in the future and that it remained a key mechanism.²⁷³ He added that whether or not Article 99 was formally invoked may be secondary and that it was first and foremost the responsibility of the Secretariat to alert the Council when there were situations which required its engagement.²⁷⁴

Citing both the roles of the General Assembly under Article 11 and the Secretary-General under Article 99, the representative of Algeria stated that their effectiveness had been diminished as a result of not being utilized sufficiently.²⁷⁵ Participating under rule 37 of the provisional rules of procedure, the representative of the United Arab Emirates agreed and opined that the greater

²⁷² Ibid., p. 10.

²⁷³ [S/PV.7621](#), p. 3.

²⁷⁴ Ibid.

²⁷⁵ Ibid., p. 57.

use of Article 99 should not be instead of Council engagement, but alongside it.²⁷⁶ The representative of Costa Rica argued that the early warning prerogative of the Secretary-General under the Charter was an obligation and responsibility, given his access to relevant information and strategic position to warn the Council in a timely manner so that it could take the appropriate preventative measures.²⁷⁷ On the issue of good offices, the representative of Cyprus specifically acknowledged the negotiation process over Cyprus under the auspices of the Secretary-General and expressed hope for its successful conclusion.²⁷⁸

At the Council's 7857th meeting on 10 January 2017, during the high-level open debate under the topic "Conflict prevention and sustaining peace", several Council members and invitees participating under rules 37 and 39 of the provisional rules of procedure referred to the need to fully empower the Secretary-General to utilize conflict prevention tools at his disposal including his good offices role and bringing matters to the Council's attention under Article 99 of the Charter.²⁷⁹ The representative of Australia stated that independent, frank advice to the Council should be a key role for the Secretary-General and of the Secretariat broadly.²⁸⁰ A number of speakers highlighted horizon-scanning briefings by the Secretariat as an important conflict prevention tool for the Council.²⁸¹ The representative of Portugal also referred to the utility of Arria formula and informal interactive dialogue meetings of the Council, as well as open thematic debates.²⁸² Similarly, the representative of France opined that regular reports of the High Commissioner for Human Rights and the Special Adviser on the Prevention of Genocide were extremely useful for the Council's work and underlined the need for the Council to make more systematic use of information provided via those channels.²⁸³

²⁷⁶ Ibid., p. 70.

²⁷⁷ Ibid., p. 82.

²⁷⁸ Ibid., p. 76.

²⁷⁹ [S/PV.7857](#), p. 7 (Kazakhstan), p. 9 (Ethiopia), p. 11 (United States), p. 15 (United Kingdom), p. 16 (Japan), p. 18 (Ukraine), p. 32 (Netherlands), pp. 45-46 (Lebanon), p. 47 (European Union), p. 50 (Australia), p. 51 (Canada) and p. 72 (Kuwait).

²⁸⁰ Ibid., p. 50.

²⁸¹ Ibid., p. 16 (Japan), p. 28 (Poland) and p. 36 (Finland) p. 37 (Germany), p. 39 (Brazil), p. 47 (European Union), p. 55 (Estonia) and p. 79 (Portugal).

²⁸² Ibid., p. 79.

²⁸³ Ibid., p. 13.

Case 10

Maintenance of international peace and security

On 12 October 2017, during its 8069th meeting, the Council held an open debate on the situation related to the risk of famine in South Sudan, Somalia, Yemen and north-eastern Nigeria. Opening the debate, the Secretary-General referred to the two letters he had sent to Member States nine months previously, in which he had expressed deep concern about the risk of famine in these countries and had called for urgent action and support for humanitarian and development agencies.²⁸⁴

During the discussion, several Council members commended the call to action by the Secretary-General in order to avert a humanitarian disaster.²⁸⁵ The representative of Sweden stated that this type of interaction between the Council and the Secretary-General, with prevention at its heart, presented a model for the future, particularly as humanitarian crises were increasingly being driven by conflict.²⁸⁶ The representatives of Egypt and Italy paid tribute to the spirit of initiative and leadership shown by the Secretary-General, who exercised his function of providing early warning to the Council in his letters.²⁸⁷ The representative of Bolivia stated that the Council must take preventive measures on the basis of early warnings issued by the Secretary-General, as such crises had humanitarian consequences and could lead to famine.²⁸⁸ Japan recalled the Council's presidential statement issued on 9 August 2017,²⁸⁹ which requested the Secretary-General to provide early warning when a conflict that had devastating humanitarian consequences and hindered an effective humanitarian response had the potential to lead to an outbreak of famine.²⁹⁰ He added that the Council continued to count on the efforts of the Secretary-General in that regard so that they could swiftly and effectively address the risk of famine and link their efforts to the goal of achieving long-term peace and security."²⁹¹

²⁸⁴ [S/PV.8069](#), p. 3.

²⁸⁵ *Ibid.*, p. 7 (Senegal), p. 8 (Kazakhstan), p. 9 (China), p. 13 (Italy), p. 14 (Bolivia (Plurinational State of)) and p. 14 (Egypt).

²⁸⁶ *Ibid.*, p. 4.

²⁸⁷ *Ibid.*, p. 13 (Italy) and p. 14 (Egypt).

²⁸⁸ *Ibid.*, p. 14.

²⁸⁹ [S/PRST/2017/14](#).

²⁹⁰ [S/PV.8069](#), pp. 16-17.

²⁹¹ *Ibid.*, p. 17.