



*Repertoire of the Practice of the Security Council*

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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 present Supplement 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, which focuses instead on selected materials that highlight the interpretation and application of the provisions of Chapter VI of the Charter in the decisions and deliberations of the Council. 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 are covered in the relevant sections of parts VII and X. Joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the pacific settlement of disputes are covered in part VIII.

During 2018, as described in section I, Member States brought various matters to the attention of the Council, several of which it was not previously seized. The Council convened four public meetings in response to communications from Member States, including one under a new agenda item in connection with the poisoning in Salisbury, United Kingdom. In their communications, the most common request made by Member States was for the Council to

convene a meeting to consider the dispute or situation in question. The Secretary-General continued drawing the attention of the Council to situations already on its agenda that were deteriorating and requested it to take appropriate action.

As described in section II, the Council dispatched a total of three missions to Afghanistan, Bangladesh and Myanmar, and the Democratic Republic of the Congo. The Council acknowledged the investigative functions of the Secretary-General in connection with the situations in the Central African Republic, the Democratic Republic of the Congo, Iraq, Mali and South Sudan and also took note of the investigative work of the Organisation for the Prohibition of Chemical Weapons (OPCW), Office of the High Commissioner for Human Rights and the Human Rights Council.

As described in section III, the Council highlighted the obligation of parties to peacefully settle their disputes, the importance of conflict prevention and sustaining peace, the good offices and mediation role of the Secretary-General, and the importance of inclusivity in political processes. The Council further called on parties to situations or disputes to cease hostilities and conclude permanent ceasefires, implement inclusive peace and reconciliation processes, resolve outstanding disputes, and address the root causes of conflict. The Council recognized the specific good offices efforts of the Secretary-General in efforts to end violence through the cessation of hostilities and the implementation of permanent ceasefires, inclusive political and reconciliation processes, the resolution of outstanding disputes, supporting political transitions and peacebuilding and addressing cross-border threats and cross-cutting issues related to the prevention of conflict.

As described in section IV, during 2018, the discussions in the Council focused on the importance and need for greater use of peaceful means in the settlement of disputes, with a particular emphasis on the role of mediation and the meaningful participation of women at all stages of political decision-making, the relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII in the context of United Nations peacekeeping, the referral by the Council of legal disputes to the International Court of Justice, and the role of the Secretary-General in providing the Council with early warning and bringing to its attention matters which in his opinion may threaten the maintenance of international peace and security.

## **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 that 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 also bring to the attention of the Council situations that 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 likely to endanger international peace and security.

In 2018, further to a letter from the United Kingdom, the Council convened a meeting, in connection with the poisoning of Sergei Skripal and Yulia Skripal in Salisbury, United Kingdom. The meeting took place under a new item entitled “Letter dated 13 March from the Chargé d’affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council ([S/2018/218](#))”. The Council also convened meetings further to communications submitted by Member States under existing items, namely “Threats to international peace and security”, “The situation in Myanmar” and “Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)”.

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 to the Council matters likely to endanger international peace and security.

## **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. The majority of such situations were referred to the Council without an explicit reference to Article 35. Article 35 was expressly mentioned in seven communications from Member States, namely from Bahrain,<sup>2</sup> Qatar,<sup>3</sup> and the United Arab Emirates,<sup>4</sup> in connection with a series of airspace incidents involving the three countries at the beginning of 2018.<sup>5</sup> No

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<sup>2</sup> [S/2018/434](#).

<sup>3</sup> [S/2018/213](#), [S/2018/228](#) and [S/2018/269](#).

<sup>4</sup> [S/2018/46](#), [S/2018/291](#) and [S/2018/425](#).

<sup>5</sup> See for further background, [S/2018/6](#), [S/2018/23](#), [S/2018/56](#) and [S/2018/310](#).

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 shown in table 1. In 2018, as shown in the table, the Council convened four public meetings in response to communications submitted to its President. 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 in table 1 with the exception of the letter dated 13 March from the Chargé d'affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council ([S/2018/218](#)) which gave rise to its inclusion as a new item on the agenda of the Council.

In the letter dated 13 March from the Chargé d'affaires, the United Kingdom transmitted a letter from its Prime Minister to the Secretary-General providing information regarding the poisoning of Sergei Skripal and his daughter Yulia Skripal in Salisbury, United Kingdom, on 4 March 2018.<sup>6</sup> According to the letter, the British Government believed that it was “highly likely” that the Russian Federation was responsible for the attack. The letter described the attack as a clear challenge by a State Member of the United Nations to the rules-based international order. Further to the communication, the Council convened a meeting under a new item entitled “Letter dated 13 March from the Chargé d'affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council ([S/2018/218](#))” on 14 March 2018.<sup>7</sup>

Matters brought to the attention of the Council in communications submitted by Member States during the period under review sometimes fell beyond the scope of Chapter VI of the Charter relating to the pacific settlement of disputes. For example, in its letter dated 17 May 2018, the Russian Federation transmitted a statement by its President on the missile attacks against the territory of the Syrian Arab Republic carried out on 13 April 2018.<sup>8</sup> The Russian

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<sup>6</sup> [S/2018/218](#).

<sup>7</sup> [S/PV.8203](#).

<sup>8</sup> [S/2018/472](#).

Federation described the attack by the United States, supported by its allies, as an “act of aggression against a sovereign state” committed without a mandate from the Security Council and in violation of the Charter of the United Nations and norms and principles of international law.<sup>9</sup> 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 those communications.<sup>10</sup>

In most cases, the type of action requested by Member States was for the Council to convene a meeting to consider the dispute or situation in question.<sup>11</sup> For example, by a letter dated 16 October 2018, nine members of the Council requested a meeting of the Council on the situation in Myanmar during which the Chair of the independent international fact-finding mission on Myanmar, established by the Human Rights Council, would formally brief the Council and enable it to “receive further information on the situation and its implications for international peace and security”.<sup>12</sup>

In addition to the communications featured in table 1, Member States brought matters to the attention of the Council of which some it was not seized. For example, in a series of communications, Bahrain, Qatar, and the United Arab Emirates drew the attention of the Council to allegations of violation of their respective airspace and interference with civilian flights.

In a letter dated 2 January 2018, the permanent representative of Qatar informed the Council that a United Arab Emirates warplane had violated the airspace of Qatar without prior notification or approval from the competent Qatari authorities. According to the letter, the incident was a “flagrant violation of the sovereignty of Qatar”, a threat to regional stability and security, and a direct violation of the principles of respecting State sovereignty and maintaining international security and peace as set out in the Charter. In the letter, the permanent representative of Qatar cautioned that should such a violation recur, Qatar would take every measure required to defend its borders, airspace and national security, in accordance with international law and norms.<sup>13</sup> On 18 January 2018, the Chargé d’affaires of the Permanent

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<sup>9</sup> Ibid.

<sup>10</sup> For more information concerning 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.

<sup>11</sup> For more information on requests by Member States to convene a meeting of the Council, see part II, sect. I.

<sup>12</sup> [S/2018/926](#). For further information on this meeting, see part IV, sect. I, case 3, “The situation in Myanmar”.

<sup>13</sup> [S/2018/6](#).



Mission of the United Arab Emirates wrote to the President of the Council in accordance with Article 35, bringing to the attention recent incidents in which Qatar had put the security and safety of international civil aviation at risk. The letter described the incidents, which it termed “regrettable and serious” and could ultimately lead to international friction or give rise to a dispute in the sense provided for in Article 34.<sup>14</sup> In a letter dated 4 April 2018, the Permanent Representative of Bahrain informed the Council of “menacing and hostile actions” by Qatar that threatened the safety of navigation of civil aircraft and urged the international community to demand that Qatar immediately end these actions and observe the rules of international law.<sup>15</sup>

Subsequent communications followed during 2018 from Bahrain, Qatar and the United Arab Emirates, exchanged similar accusations. While Article 35 was invoked in some of those letters,<sup>16</sup> in others it was not.<sup>17</sup> However, none of these communications requested a meeting of the Council.

### **Table 1**

#### **Communications bringing disputes or situations to the attention of the Security Council which resulted in a meeting of the Council, 2018**

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
<b>Letter dated 13 March from the Chargé d’affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (<a href="#">S/2018/218</a>)</b>		
Letter dated 13 March from the Chargé d’affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council ( <a href="#">S/2018/218</a> )		<a href="#">S/PV.8203</a> 14 March 2018

#### **Threats to international peace and security**

<sup>14</sup> [S/2018/46](#).

<sup>15</sup> [S/2018/310](#).

<sup>16</sup> [S/2018/213](#), [S/2018/228](#), [S/2018/269](#), [S/2018/291](#), [S/2018/425](#), and [S/2018/434](#).

<sup>17</sup> [S/2018/23](#) and [S/2018/461](#).

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 17 May 2018 from the Chargé d’Affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General ( <a href="#">S/2018/472</a> )	To convene an emergency meeting of the Security Council to discuss the aggressive actions by the United States and its allies.	<a href="#">S/PV.8233</a> 14 April 2018
<b>The situation in Myanmar</b>		
Letter dated 16 October 2018 from the representatives of Côte d’Ivoire, France, Kuwait, the Netherlands, Peru, Poland, Sweden, the United Kingdom and the United States to the President of the Security Council ( <a href="#">S/2018/926</a> )	To convene a meeting of the Security Council on the situation in Myanmar, pursuant to rule 2 of the provisional rules of procedure to receive further information on the situation and its implications for international peace and security.	<a href="#">S/PV.8381</a> 24 October 2018
<b>Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)</b>		
Letter dated 14 December 2018 from the Permanent Representative of Serbia to the United Nations addressed to the President of the Security Council ( <a href="#">S/2018/1111</a> )	To convene an urgent meeting of the Security Council to consider the decision of the Provisional Institutions of Self-Government in Pristina to transform the Kosovo Security Force into armed forces.	<a href="#">S/PV.8427</a> 17 December 2018

## **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. 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 the period under review, the Secretary-General did not invoke Article 99, either 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. During 2018, Member States made references to horizon-scanning and situational awareness meetings in connection with the Council’s meetings on United Nations peacekeeping operations and cooperation between the

United Nations and regional and subregional organizations.<sup>18</sup> Discussions of relevance for Article 99 of the Charter are featured in cases 10, 11 and 12 below.

In his letters transmitting the monthly reports of the Director-General of the Organisation for the Prohibition of Chemical Weapons (OPCW) submitted pursuant to paragraph 12 of resolution [2118 \(2013\)](#) on the elimination of the Syrian chemical weapons program, the Secretary-General continued to express concern regarding the allegations of the use of chemical weapons in the Syrian Arab Republic and drew the attention of the Council on the need to ensure accountability for their use.<sup>19</sup> Furthermore, on 11 April 2018, in a letter addressed to the President of the Council, the Secretary-General referred to the deliberations of the Council which took place on 10 April 2018 regarding the ongoing allegations of the use of chemical weapons in the Syrian Arab Republic and expressed his deep disappointment that the Council was unable to agree upon a dedicated mechanism to attribute responsibility in this regard.<sup>20</sup> The Secretary-General noted the seriousness of the allegations regarding the use of chemical weapons in Douma (Eastern Ghutah) and appealed to the Council to fulfil its duties and not to give up on efforts to agree upon a dedicated, impartial, objective and independent mechanism.<sup>21</sup> The Secretary-General also raised concern regarding the situation in the Middle East and particularly the Syrian Arab Republic in two meetings of the Council held under the item entitled “Threats to international peace and security”, as described in further detail in case 12 below.

### **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 Council under that Article.<sup>22</sup>

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<sup>18</sup> [S/PV.8218](#), p. 53 and [S/PV.8414](#), p. 65.

<sup>19</sup> [S/2018/84](#), [S/2018/182](#), [S/2018/283](#), [S/2018/408](#), [S/2018/523](#), [S/2018/644](#), [S/2018/745](#), [S/2018/804](#), [S/2018/875](#), [S/2018/971](#), [S/2018/1071](#), [S/2018/1166](#).

<sup>20</sup> [S/2018/333](#).

<sup>21</sup> *Ibid.*

<sup>22</sup> For more information regarding 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 that 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. Subsection A relates to Security Council missions; subsection B to investigative and fact-finding functions of the Secretary-General; and subsection C to other instances of investigative functions acknowledged by the Council.

During the reporting period, the Council dispatched three missions to the field to Afghanistan, Bangladesh and Myanmar, and the Democratic Republic of the Congo to express support for peace processes, to assess the situation on the ground, urge the full implementation of its decisions and express support for United Nations peacekeeping operations. The Council acknowledged the investigative functions of the Secretary-General by taking note of the Mapping Project on serious violations and abuses of international human rights law and violations of international humanitarian law in the Central African Republic; expressing its intention to closely monitor the joint investigations by the Government of the Democratic Republic of the Congo, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the United Nations Joint Human Rights Office into violations of international humanitarian law and violations and abuses of human rights in the

Kasai region; welcoming the commitment of the Secretary-General to ensure that the perpetrators of the killing of two members of the Group of Experts on the Democratic Republic of the Congo and four Congolese nationals in 2017 were brought to justice; mandating the United Nations Assistance Mission in Iraq (UNAMI) to support the work of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant established pursuant to resolution [2379 \(2017\)](#); welcoming the establishment by the Secretary-General of the International Commission of Inquiry for Mali; and taking note of the reports on the human rights situation in South Sudan issued by the United Nations Mission in the Republic of South Sudan (UNMISS) and the Secretary-General. The Council also recognized the investigative work of the Organisation for the Prohibition of Chemical Weapons (OPCW), the Office of the High Commissioner for Human Rights and the Human Rights Council in connection with the situations in Burundi, the Central African Republic, the Democratic Republic of the Congo and South Sudan. Council members deliberated on the investigative functions of the Secretary-General and other bodies of the United Nations in relation to the situation in Myanmar, the situation in Iraq and the conflict in the Syrian Arab Republic.

### **A. Security Council missions**

The Security Council dispatched three missions consisting of all 15 Council members to (i) Afghanistan, (ii) Bangladesh and Myanmar and (iii) the Democratic Republic of the Congo. None of the Council missions in the period under review was explicitly charged with investigative tasks. The objectives of these missions were, inter alia, to (i) underline the support of the Council for the peace, development and stabilization processes in Afghanistan and the importance of continued progress on electoral reform and the holding of credible and inclusive elections in 2018 and 2019; (ii) urge the full implementation of the presidential statement of the Council of 6 November 2017 regarding the cessation of hostilities, humanitarian access and respect for international human rights law and international humanitarian law in Myanmar,<sup>23</sup> assess the efforts of the Government of Bangladesh and United Nations agencies in supporting the refugees in Bangladesh and to seek the views of all concerned parties, including the

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<sup>23</sup> [S/PRST/2017/22](#).

Rohingya refugee community, regarding the situation in Rakhine state and Bangladesh; and (iii) encourage stakeholders in the Democratic Republic of the Congo to create all conditions necessary to ensure an environment conducive to the peaceful and inclusive conduct of political activities and that the presidential elections of 23 December 2018 take place with the requisite conditions of transparency, credibility and inclusivity and security and to assess the security situation in the country and the ability of MONUSCO to implement its mandate.

Table 2 provides more information on the missions dispatched in 2018, including their duration and composition and the related documents.

**Table 2**  
**Security Council missions, 2018**

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting and date</i>	<i>Agenda item</i>
12 to 15 January 2018	Afghanistan	All Council members (Kazakhstan (lead))	<a href="#">S/2018/37</a> 12 January 2018	<a href="#">S/2018/419</a> 3 May 2018	<a href="#">S/PV.8158</a> 17 January 2018	Security Council mission
28 April to 2 May 2018	Bangladesh and Myanmar	All Council members (Kuwait (co-lead), Peru (co-lead), United Kingdom (co-lead))	<a href="#">S/2018/391</a> 26 April 2018	No report available	<a href="#">S/PV.8255</a> 14 May 2018	Security Council mission
5 to 7 October 2018	Democratic Republic of the Congo	All Council members (Bolivia (Plurinational State of) (co-lead), Equatorial Guinea (co-lead), France (co-lead))	<a href="#">S/2018/890</a> 3 October 2018	<a href="#">S/2018/1030</a> 15 November 2018	<a href="#">S/PV.8369</a> 11 October 2018	Security Council mission

In 2018, the Council referred to its missions in one of its decisions. By resolution [2419 \(2018\)](#), in connection with the item entitled “Maintenance of international peace and security”, the Council reiterated the importance of Council missions taking into account youth-related considerations including, as appropriate, through consultations with local and international youth groups.<sup>24</sup> Council members also discussed the utility of Council missions in the context of meetings on the Council’s working methods as described in case 1 below.

<sup>24</sup> Resolution [2419 \(2018\)](#), para. 4.

## Case 1

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

On 31 January 2018, the Council held its 8173<sup>rd</sup> meeting under the item entitled “Implementation of the note by the President of the Security Council ([S/2017/507](#))”. The representative of Kazakhstan briefed the Council as part of a wrap-up session of its Presidency in January 2018. He described the Council’s mission to Afghanistan from 12 to 15 January 2018, which aimed at gaining first-hand information concerning threats facing the country and its potential, as one of the highlights of the Presidency. He added that the mission was able to demonstrate the support of the Council for the country and its commitment to peace and reconciliation.<sup>25</sup> The representative of Kuwait reaffirmed the importance of such field visits, which provided an opportunity to follow developments in conflict zones, understand the real challenges faced by countries in question and realize the responsibilities of the Council to meet all needs and requirements so as to achieve international peace and security.<sup>26</sup>

At the 8175<sup>th</sup> meeting on 6 February 2018, the Council held an open debate under the sub-item entitled “Working methods of the Security Council” further to a concept note circulated by Kuwait which held the Presidency for the month.<sup>27</sup> In his statement to the Council, the Executive Director of Security Council Report, a non-governmental organization, noted that, with five missions having taken place in both 2016 and 2017, the Council was clearly convinced of their value. He added that such missions could surely be enhanced not just by the standard formulation of terms of reference and subsequent briefing, as described in the note by the President of 30 August 2017 ([S/2017/507](#)), but by more strategic prior discussions of the objectives around which the Council could unite and subsequent discussion of the follow-up.<sup>28</sup>

The representative of Côte d’Ivoire stated that Council field missions to conflict areas were a direct way for the Council to gather information, making it possible not only to assess whether progress has been made but also to bring pressure to bear on the parties to a conflict in order to induce them to better fulfil their commitments, for example in the framework of a peace

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<sup>25</sup> [S/PV.8173](#), pp. 2-3.

<sup>26</sup> *Ibid.*, p. 17.

<sup>27</sup> [S/2018/66](#).

<sup>28</sup> [S/PV.8175](#), p. 4.

agreement.<sup>29</sup> The representative of Peru noted that the reports of Council field visits provided substantive, first-hand information that was vital when drafting resolutions or statements.<sup>30</sup> The representative of Equatorial Guinea stated that the Council should clearly define the decision-making process on the deployment of missions, mission composition, the timelines for the submission of reports and the way they are crafted, and the decision-making process regarding their outcome.<sup>31</sup>

The representative of Sweden highlighted that the note by the President dated 30 August 2017 pointed out the preventative role of Council missions, which should be further explored, including through the use of mini-missions by a smaller number of Council members.<sup>32</sup> Similarly, the representative of Lebanon called on the Council to devote more field visits for the prevention of conflict.<sup>33</sup> Noting the utility of a future Council visit to Myanmar and Bangladesh to reaffirm its support to refugees and displaced persons, the representative of Bangladesh stated that Council visits should be organized in a way that responded to the most urgent conflict and humanitarian situations under its consideration.<sup>34</sup>

The representatives of Côte d'Ivoire and Egypt called for joint field missions with the Peace and Security Council of the African Union.<sup>35</sup> The representative of Brazil proposed inviting the Chairs of the Peacebuilding Commission country-specific configurations to join some of the Council's missions.<sup>36</sup>

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

In its decisions during the period under review, the Council acknowledged the investigative or fact-finding functions of the Secretary-General in connection with five items on its agenda, namely the situations in the Central African Republic, the Democratic Republic of the

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<sup>29</sup> Ibid., p. 18.

<sup>30</sup> Ibid., p. 10.

<sup>31</sup> Ibid., p. 17.

<sup>32</sup> Ibid., p. 19.

<sup>33</sup> Ibid., p. 38.

<sup>34</sup> Ibid., p. 49.

<sup>35</sup> Ibid. p. 16 (Côte d'Ivoire) and p. 64 (Egypt).

<sup>36</sup> Ibid., p. 25. For more information on the Security Council missions dispatched in 2018, see part I, sect 33.



Congo, Iraq, Mali and South Sudan. The relevant provisions of those decisions are set out in table 3 below.

In connection with the situation in the Central African Republic, the Council took note of the report of the Mapping Project, conducted further to resolution [2301 \(2016\)](#), by the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), which described serious violations and abuses of international human rights and violations of international humanitarian law committed within the territory of the Central African Republic between January 2003 and December 2015 and further called on the Central African Republic authorities to follow-up on the recommendations.<sup>37</sup>

With respect to the situation concerning the Democratic Republic of the Congo, the Council reiterated the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations of abuses of human rights in the Kasai region over the past year, as well as its intention to closely monitor progress of the investigations into these acts, including the joint investigations by the Government of the Democratic Republic of the Congo, MONUSCO and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, in order to bring to justice and hold accountable all those responsible.<sup>38</sup> In addition, the Council urged the Government of the Democratic Republic of the Congo to fully cooperate with the United Nations team deployed to assist with the national investigation into the death of two members of the Group of Experts on the Democratic Republic of the Congo and four Congolese nationals in 2017 and to ensure that all perpetrators were brought to justice.<sup>39</sup> The Council also welcomed the work of the United Nations team and the commitment of the Secretary-General that the United Nations would do everything possible to ensure that the perpetrators were brought to justice.<sup>40</sup>

In relation to the situation in Iraq, the Council mandated the United Nations Assistance Mission in Iraq (UNAMI), inter alia, to promote accountability and the protection of human

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<sup>37</sup> Resolution [2448 \(2018\)](#), para. 28.

<sup>38</sup> Resolution [2409 \(2018\)](#), para. 14.

<sup>39</sup> Ibid.

<sup>40</sup> Resolution [2424 \(2018\)](#), fourth preambular paragraph. For information on the United Nations team deployed by the Secretary-General to the Democratic Republic of the Congo to assist with the national investigation into the killing of the Group of Experts and the four Congolese nationals accompanying them, see letter dated 31 October 2017 from the Secretary-General addressed to the President of the Security Council ([S/2017/917](#)) and *Repertoire, Supplement 2016-2017*, part VI, sect. II.B.

rights, and judicial and legal reform, as well as to support the work of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant established pursuant to resolution [2379 \(2017\)](#).<sup>41</sup>

Regarding the situation in Mali, the Council welcomed the establishment by the Secretary-General of the International Commission of Inquiry for Mali, the mandate of which is described further below, encouraged its operationalization, and called upon the parties to fully cooperate with it.<sup>42</sup> The Council also requested the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) to support the operations of the International Commission of Inquiry.<sup>43</sup>

Finally, the Council also took note of the reports on the human rights situation in South Sudan issued by UNMISS and the Secretary-General, as well as the Mission's joint report with the Office of the High Commissioner for Human Rights on freedom of expression in South Sudan.<sup>44</sup>

**Table 3**  
**Decisions relating to investigative and/or fact-finding activities by the Secretary-General in 2018**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in the Central African Republic</b>	
Resolution <a href="#">2448 (2018)</a> 13 December 2018	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 the Central African Republic between January 2003 and December 2015 and further calls on the Central African Republic Authorities to follow-up on the recommendations (para. 28)
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2409 (2018)</a> 27 March 2018	Reiterates its condemnation of the violence witnessed in the Kasai region over the past year, further reiterates the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations or abuses of human rights in the region, as well as its intention to closely monitor progress of the investigations into these violations and abuses, including the joint

<sup>41</sup> Resolution [2421 \(2018\)](#), para. 2(d). For more information on the mandate of the United Nations Assistance Mission in Iraq, see part X, sect. II, "Special political missions". For more information on the mandate of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant established pursuant to resolution [2379 \(2017\)](#), see part IX, sect. III, "Investigative bodies".

<sup>42</sup> Resolution [2423 \(2018\)](#), twenty-third preambular paragraph and para. 15.

<sup>43</sup> *Ibid.*, para. 38(a)(iii). For more information on the mandate of the United Nations Multidimensional Integrated Stabilization Mission in Mali, see part X, sect. I, "Peacekeeping operations".

<sup>44</sup> Resolution [2406 \(2018\)](#), seventeenth and twentieth preambular paragraphs.

<i>Decision and date</i>	<i>Provision</i>
	investigations by the Government of the Democratic Republic of the Congo, MONUSCO and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, in order to bring to justice and hold accountable all those responsible, and looks forward to their results; further calls upon the Government of the Democratic Republic of the Congo to continue to cooperate with the team of international experts on the situation in the Kasai regions, as mandated by the Human Rights Council in its resolution 35/33, and urges the Government of the Democratic Republic of the Congo to fully cooperate with the United Nations team deployed, as agreed, to assist the Congolese authorities investigations into the deaths of the two UN experts in March 2017, and ensure all perpetrators are brought to justice and held accountable (para. 14)
Resolution <a href="#">2424 (2018)</a> 29 June 2018	Reiterating the need for the Government of the Democratic Republic of the Congo to swiftly and fully investigate the killing of the two members of the Group of Experts and the four Congolese nationals accompanying them and bring those responsible to justice, welcoming the Secretary-General's commitment that the United Nations will do everything possible to ensure that the perpetrators are brought to justice, further welcoming the work of the United Nations team deployed to assist the Congolese authorities in their investigations, in agreement with the Congolese authorities, and calling for continued cooperation (fourth preambular paragraph)
<b>The situation concerning Iraq</b>	
Resolution <a href="#">2421 (2018)</a> 14 June 2018	Decides further that the Special Representative of the Secretary-General and the United Nations Assistance Mission for Iraq, at the request of the Government of Iraq, and taking into account the letter from the Minister of Foreign Affairs of Iraq to the Secretary-General (S/2018/430), shall: ... (d) promote accountability and the protection of human rights, and judicial and legal reform, in order to strengthen the rule of law in Iraq, in addition to supporting the work of the investigative team established in resolution <a href="#">2379 (2017)</a> (para. 2(d))
<b>The situation in Mali</b>	
Resolution <a href="#">2423 (2018)</a> 28 June 2018	Recognizing the essential contribution of the transitional justice mechanisms referred to in the Agreement to the promotion of a durable peace in Mali and accountability for human rights abuses and violations, noting the gradual progress achieved in the operationalization of the Truth, Justice and Reconciliation Commission, stressing the need for the Government to extend its mandate beyond December 2018, welcoming the establishment of the International Commission of Inquiry, in accordance with the Agreement, and encouraging its operationalization (twenty-fourth preambular paragraph)  Welcomes the establishment of an International Commission of Inquiry, in accordance with the Agreement and as requested by resolution <a href="#">2364 (2017)</a> , and calls upon all parties to cooperate fully with it (para. 15)  Decides that MINUSMA's mandate shall include the following priority tasks:  (a) Support to the implementation of the Agreement on Peace and Reconciliation in Mali  ...

<i>Decision and date</i>	<i>Provision</i>
	(iii) To support the implementation of the reconciliation and justice measures of the Agreement, especially in its Part V, by continuing its current activities, including with respect to the support of the operations of the International Commission of Inquiry (...) (para. 38(a)(iii))
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2406 (2018)</a> 15 March 2018	Taking note of the United Nations Mission in the Republic of South Sudan and Office of the High Commissioner for Human Rights report on the Freedom of Expression in South Sudan, condemning the use of media to broadcast hate speech and transmit messages instigating violence against a particular ethnic group, a practice that has the potential to play a significant role in promoting mass violence and exacerbating conflict, and calling on the Government of South Sudan to immediately condemn and counter increasing hate speech and ethnic violence and to promote reconciliation among its people, including through a process of justice and accountability (seventeenth preambular paragraph)
	Taking note with interest of the reports on the human rights situation in South Sudan issued by United Nations Mission in the Republic of South Sudan and the Secretary-General, as well as the report of the African Union Commission of Inquiry on South Sudan and the Separate Opinion, expressing grave concern that according to some reports, including the African Union Commission of Inquiry report on South Sudan, released on 27 October 2015, there were reasonable grounds to believe that war crimes and crimes against humanity had been committed and the report of the Commission on Human Rights in South Sudan, released on 23 February 2018 that war crimes and crimes against humanity may have been committed, emphasizing its hope that these and other credible reporting will be duly considered by any transitional justice and reconciliation mechanisms for South Sudan including those established in the Agreement, stressing the importance of collection and preservation of evidence for eventual use by the Hybrid Court for South Sudan, and encouraging efforts in this regard (twentieth preambular paragraph)

During the reporting period, the Secretary-General undertook one new investigative action in relation to the situation in Mali. In his letter dated 19 January 2018 addressed to the President of the Council, the Secretary-General informed the Council that, in response to the request made by the Government of Mali, on 5 April 2016, and taking into consideration Article 46 of the Agreement on Peace and Reconciliation in Mali, he had decided to establish an International Commission of Inquiry to investigate allegations of abuses and serious violations of international human rights law and international humanitarian law, including allegations of conflict-related sexual violence, committed in the territory of Mali from 1 January 2012 to the date of the establishment of the Commission. The Secretary-General added that the decision was consistent with and in furtherance of Council resolution [2364 \(2017\)](#) which provided that one of the priority tasks of MINUSMA would be to support the implementation of the reconciliation

and justice measures in the Agreement, including with respect to the establishment and operations of an international commission of inquiry. He further noted his expectation that the findings of the Commission would complement and help advance ongoing efforts to fight impunity by competent Malian authorities and the International Criminal Court.<sup>45</sup>

By his letter dated 19 January 2018 addressed to the President of the Council, the Secretary-General requested an extension of the time frame for the submission of the terms of reference for the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant established pursuant to resolution [2379 \(2017\)](#) in order to continue the efforts to reach an agreement with the Government of Iraq.<sup>46</sup> Following the Council's approval of his request for extension,<sup>47</sup> the Secretary-General submitted the terms of reference for the Council's approval in a letter dated 9 February 2018 which were approved by the Council on 13 February 2018.<sup>48</sup> The terms of reference, which were acceptable to the Government of Iraq and consistent with resolution [2379 \(2017\)](#), outlined the mandate, structure and composition of the Investigative Team, the standards and procedural requirements for the collection, preservation, storage and use of evidence, and cooperation between the Investigative Team and other entities.<sup>49</sup>

In 2018, Council members also made reference to the investigative authority of the Council and the role of the Secretary-General in their discussions. For example, at the 8152<sup>nd</sup> meeting held on 5 January 2018 under the item entitled "The situation in the Middle East", in connection with events in the Islamic Republic of Iran, the representative of the United Kingdom stated that no one was forcing the situation in Iran on the agenda of the Council, which was "perfectly empowered, through Article 34 of the Charter of the United Nations to 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 was likely to endanger the maintenance of international peace and security".<sup>50</sup> In contrast, the representative of the Russian Federation maintained that the subject of the meeting did not correspond to the Council's

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<sup>45</sup> [S/2018/57](#).

<sup>46</sup> [S/2018/63](#).

<sup>47</sup> See [S/2018/64](#).

<sup>48</sup> [S/2018/118](#) and [S/2018/119](#).

<sup>49</sup> [S/2018/118](#).

<sup>50</sup> [S/PV.8152](#), p. 7.

prerogatives under the Charter and that the references made to Article 34 during the meeting were inappropriate.<sup>51</sup>

Similarly, at the 8340<sup>th</sup> meeting held on 5 September 2018 under the item entitled “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security”, in connection with the situation in Nicaragua, the representative of Kuwait noted that Article 34 underscored the role of the Council to apply preventive diplomacy in order to prevent conflicts and address situations and crises as early as possible if there were early-warning signs of such conflicts that could endanger international peace and security.<sup>52</sup> The representative of Bolivia responded that the argument for addressing the situation in Nicaragua under Article 34 of the Charter was not applicable, for no dispute or situation was being investigated that could lead to international friction or give rise to a dispute whose continuance could endanger the maintenance of international peace and security.<sup>53</sup>

Subsequent to the termination of the mandate of the OPCW-United Nations Joint Investigative Mechanism in November 2017, the Council continued its deliberations on the viability of establishing an accountability mechanism to investigate and attribute responsibility for the use of chemical weapons in the Syrian Arab Republic (see cases 2 and 4). The Council also discussed the mandate and the commencement of work of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/Islamic State in Iraq and the Levant established pursuant to resolution [2379 \(2017\)](#) (see case 3).

## **Case 2**

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

On 5 February 2018, the Council held its 8174<sup>th</sup> meeting under the item entitled “The situation in the Middle East” and was briefed by the High Representative for Disarmament Affairs on the implementation of resolution [2118 \(2013\)](#) on the elimination of the Syrian Arab Republic’s chemical weapons programme further to the fifty-second monthly report of the

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<sup>51</sup> *Ibid.*, p. 13.

<sup>52</sup> [S/PV.8340](#), p. 7.

<sup>53</sup> *Ibid.*, pp. 16-17.

Director-General of the OPCW.<sup>54</sup> The High Representative stated that the OPCW fact-finding mission continued to look into all allegations of the use of chemical weapons in the Syrian Arab Republic. Noting that new reports by the mission were pending, she added that should those investigations conclude that there had been the use, or likely use, of chemical weapons, the obligation to enact a meaningful response would be further intensified. In this regard, she expressed hope, and the hope of the Secretary-General, that such a response would favour unity, not impunity.<sup>55</sup>

During the discussion, Council members expressed their concern and condemned reports on the use of chemical weapons and the need for the Council to establish a mechanism to ensure the accountability for their use. The representative of Sweden stated that the Council had a responsibility to protect the international disarmament and non-proliferation regimes and to ensure accountability.<sup>56</sup> The representative of Peru maintained that in order to provide credible deterrence to the use of such weapons, the attributive mechanism needed to have the highest standards of professionalism, objectivity, transparency and independence to fill the gap left by the OPCW-United Nations Joint Investigative Mechanism.<sup>57</sup> The Netherlands added that the fundamental characteristic of any accountability mechanism were the principles of impartiality, independence, comprehensiveness and effectiveness.<sup>58</sup> The representative of Poland was of the view that any future instrument for this purpose could not operate in a void, had to build on the Joint Investigative Mechanism, and its mandate could not deviate from resolution [2235 \(2015\)](#) which established it.<sup>59</sup>

The representative of the United States stated that the latest draft resolution of the Russian Federation for the re-establishment of such a mechanism did not meet the criteria of independence and impartiality, particularly as the proposal did not take into consideration the findings of the Joint Investigative Mechanism, altered the process for the selection of investigators, provided for unnecessary and arbitrary investigative standards and allowed for the

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<sup>54</sup> See letter dated 1 February 2018 from the Secretary-General addressed to the President of the Council ([S/2018/84](#)).

<sup>55</sup> [S/PV.8174](#), pp. 2-3.

<sup>56</sup> *Ibid.*, p. 9.

<sup>57</sup> *Ibid.*, p. 8.

<sup>58</sup> *Ibid.*, p. 13.

<sup>59</sup> *Ibid.*, p. 9.



Council to review the findings thereof and to decide whether to include them in the final report.<sup>60</sup> The representative of the United Kingdom expressed criticism regarding the draft proposal for focusing solely on non-State actors, limiting the role of the investigative experts to merely gathering evidence, raising the burden of proof to the “beyond a reasonable doubt” standard, and insisting on the conduct of site visits despite the explicit provision in the Chemical Weapons Convention for other ways to gather relevant evidence.<sup>61</sup>

Describing the proposal of the Russian Federation as a new and positive opportunity to reach the goal of creating a transparent accountability mechanism, the representative of Bolivia called on Council members to commit themselves to a process of purposeful negotiation and echoed the call of the Secretary-General for the Council to demonstrate unity on this issue.<sup>62</sup> The representative of the Russian Federation criticized the work of the Joint Investigative Mechanism which it argued formed its conclusions based on disinformation supplied by militant groups.<sup>63</sup> Côte d’Ivoire called for the establishment of an investigative mechanism that was acceptable to all and capable of identifying perpetrators and bringing them to justice.<sup>64</sup>

On 10 April 2018, at the 8228<sup>th</sup> meeting held under the same item, the Council met again to consider three draft resolutions regarding the investigation of alleged chemical weapons attacks in the Syrian Arab Republic, further to the alleged chemical attack in Douma on 7 April 2018.<sup>65</sup> One of the draft resolution was sponsored by 26 Member States,<sup>66</sup> and the remaining two were sponsored by the Russian Federation.<sup>67</sup> The draft sponsored by 26 Member States and one of the resolutions sponsored by the Russian Federation proposed the establishment of the United Nations Independent Mechanism of Investigation (UNIMI).<sup>68</sup> Among other differences, whilst the draft sponsored by 26 Member States would have requested the Syrian authorities to grant the UNIMI and OPCW personnel “immediate and unfettered access” to any sites, materials

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<sup>60</sup> *Ibid.*, pp. 3-4.

<sup>61</sup> *Ibid.*, pp. 4-5.

<sup>62</sup> *Ibid.*, p. 7.

<sup>63</sup> *Ibid.*, p. 11.

<sup>64</sup> *Ibid.*, p. 12.

<sup>65</sup> For more information on Council deliberations on a new structure for the investigation of the use of chemical weapons in the Syrian Arab Republic, see part IX, sect. VIII, “Subsidiary organs of the Security Council proposed but not established”.

<sup>66</sup> [S/2018/321](#).

<sup>67</sup> [S/2018/175](#) and [S/2018/322](#).

<sup>68</sup> [S/2018/321](#), para. 7; and [S/2018/175](#), para. 5.



and individuals deemed of importance for the purpose of its mandate,<sup>69</sup> the draft sponsored by the Russian Federation specified that such access would be “justified based on the assessment of the facts and circumstances known at the time”.<sup>70</sup>

The draft sponsored by 26 Member States was voted on first and failed to be adopted owing to the negative vote of the Russian Federation, a permanent member of the Council. The representative of the Russian Federation explained that the draft proposed replicated the former mechanism’s “flawed working methods”.<sup>71</sup> The representative of China regretted that the draft did not take into consideration some of the concerns of certain Council members regarding the mechanism’s working methods.<sup>72</sup> The first of the two draft resolutions sponsored by the Russian Federation was voted on second and failed to be adopted due to the lack of the required number of votes. The second draft resolution sponsored by the Russian Federation, was voted on last and expressed support for the fact-finding mission but contained no provisions on the establishment of an investigation mechanism. According to the draft resolution, the Council would have welcomed the decision of the Director-General of the OPCW to send the fact-finding Mission experts for investigation in accordance with the Chemical Weapons Convention to the site of the alleged incident in Douma and adjacent areas and would have requested the Mission to report the results to the OPCW Executive Council as soon as possible. It would have also requested the Director-General to keep the Council informed of the progress.<sup>73</sup> The draft resolution would have expressed its full support to the fact-finding mission, demanded that all parties in the Syrian Arab Republic facilitate free and safe access for the mission to relevant sites as well as provide any information and evidence, in accordance with resolution [2118 \(2013\)](#), in relation to the alleged incident in Douma and adjacent areas.<sup>74</sup>

Speaking before the vote on the draft resolution, the representative of the Russian Federation stated that this was a practical, non-confrontational and depoliticized initiative in support of the OPCW, which would help the specialists in this area to determine what did, or rather did not, take place in Douma.<sup>75</sup> The draft proposed was criticized by several Council

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<sup>69</sup> [S/2018/321](#), paras. 12 and 13.

<sup>70</sup> [S/2018/175](#), para. 9.

<sup>71</sup> [S/PV.8228](#), p. 4.

<sup>72</sup> *Ibid.*, p. 6.

<sup>73</sup> [S/2018/322](#).

<sup>74</sup> *Ibid.*

<sup>75</sup> [S/PV.8228](#), p. 13.

members for its failure to create a mechanism to ensure accountability for the attacks,<sup>76</sup> and for not stressing the need for the fact-finding mission's independence.<sup>77</sup> The representative of the United Kingdom stated that her delegation could not vote for the draft resolution because it did not establish an investigation into who was responsible for the attack.<sup>78</sup> The representative of the United States criticized the draft resolution for asking the OPCW to send its fact-finding mission to Douma when the mission was already underway and when it already had a mandate to investigate and collect samples.<sup>79</sup> The representative of the Netherlands expressed serious hesitations about the text of the draft resolution because the fact-finding mission did not require the Council's authorization for site visits and stated that his delegation did not want to set a precedent that such authorization was required.<sup>80</sup> Explaining his country's abstention, the representative of Kuwait stated that there was no need for such a draft resolution and called instead for an international, independent, impartial, neutral and professional body or mechanism that would investigate the incident and identify the party that had used chemical weapons.<sup>81</sup> The representative of Kazakhstan expressed support for the draft resolution given the importance of sending the fact-finding mission to Douma, even if the only information obtained would have been about the kind of substance that was used, it would still have been very useful to understand who the perpetrators might have been and, at the very least, establish that a chemical attack had taken place.<sup>82</sup>

### **Case 3**

#### **Threats to international peace and security**

On 4 December 2018, at the 8412<sup>th</sup> meeting of the Council under the item entitled "Threats to international peace and security", further to his first report dated 15 November 2018,<sup>83</sup> the Special Adviser of the Secretary-General and Head of the United Nations

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<sup>76</sup> Ibid., pp. 14-15 (United Kingdom), p. 15 (Sweden), p. 17 (Kuwait), p. 18 (France) and pp. 18-19 (Peru).

<sup>77</sup> Ibid., p. 18 (Netherlands).

<sup>78</sup> Ibid., pp. 14-15.

<sup>79</sup> Ibid., p. 16.

<sup>80</sup> Ibid., p. 18.

<sup>81</sup> Ibid., p. 17.

<sup>82</sup> Ibid.

<sup>83</sup> [S/2018/1031](https://www.un.org/securitycouncil/content/repertoire/structure).

Investigative Team to Promote Accountability for Crimes Committed by the Islamic State in Iraq and the Levant (ISIL/Da'esh) briefed the Council on the formal commencement of the Investigative Team's activities on 20 August 2018 and its deployment to Iraq on 29 October 2018. The Special Adviser announced the opening of investigative activities in early 2019 and the key priorities of the Investigative Team including, inter alia, gathering and analysing the evidence within Iraq, to discern patterns and subsequently fill the identified gaps. He further underlined that the dual imperatives of the Investigative Team, namely to ensure its own independence and to seek cooperation, and to demonstrate impartiality and pursue national engagement, did not represent a dichotomy and that there was no contradiction in upholding independence while supporting national accountability.<sup>84</sup>

In their discussion, many Council members welcomed the preparatory work undertaken by the Investigative Team and progress made toward the commencement of its investigations. The representative of the United Kingdom stated that it was vital for the Investigative Team to secure accountability for the victims of ISIL/Da'esh in order to bring closure to those who still suffered.<sup>85</sup> Given the difficulties of the Council to advance accountability for violations and abuses of international and humanitarian law and human rights law on its agenda, the representative of Sweden maintained that the decision to establish the Investigative Team was particularly significant and a major achievement.<sup>86</sup> According to the representative of Poland, by resolution [2379 \(2017\)](#), the Council recognized, in a united way, the importance of judicial accountability to the maintenance of international peace and security.<sup>87</sup> The representative of the Russian Federation described the Investigative Team as a bold kind of innovation for the Council given that it was neither judicial nor prosecutorial and that the evidence it collected was to be used by the Iraqi judicial system and other national judicial bodies exclusively upon the agreement with Baghdad.<sup>88</sup> The representative of Kuwait stated that the Investigative Team's mission represented a fundamental part of the comprehensive systematic approach to eliminating terrorism.<sup>89</sup>

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<sup>84</sup> [S/PV.8412](#), p. 5.

<sup>85</sup> *Ibid.*, p. 6.

<sup>86</sup> *Ibid.*, pp. 14-15.

<sup>87</sup> *Ibid.*, p. 13.

<sup>88</sup> *Ibid.*, p. 8.

<sup>89</sup> *Ibid.*, p. 10.

A number of speakers emphasized the importance of the Investigative Team collecting evidence in accordance with international standards.<sup>90</sup> The representative of China stated that the Investigative Team should prioritize conducting targeted, field-based investigations.<sup>91</sup> The representative of Poland encouraged the Investigative Team to pay special attention to sexual and gender-based crimes and violations as well as all abuses committed against children.<sup>92</sup> The representatives of France, the Netherlands, Poland and Sweden maintained that, in accordance with the practices of the United Nations, the evidence collected by the Investigative Team would not be used in trials that could lead to capital punishment.<sup>93</sup>

The representative of the United Kingdom concurred that the Investigative Team's strong focus on engagement with the Government of Iraq as being crucial to the success of its work.<sup>94</sup> The representative of the United States underscored that the Government should give the Investigative Team the space to operate effectively and noted that independence and impartiality were essential to its credibility.<sup>95</sup> The representatives of China, Ethiopia and the Russian Federation stated that the Investigative Team must operate with full respect for Iraq's sovereignty and its jurisdiction over crimes committed in Iraqi territory.<sup>96</sup> The representative of the Netherlands noted that the Investigative Team's ability to build relationships with affected communities, especially women, would be crucial to its work.<sup>97</sup> Emphasizing the importance of cooperation with other United Nations mechanisms, the representative of France welcomed cooperation of the Investigative Team with UNAMI, the Security Council Committee pursuant to resolution [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning ISIL (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, and its team of experts.<sup>98</sup> The representative of Kazakhstan called on the Investigative Team to cooperate with all organizations, agencies of the United Nations, the private sector, academia, media and non-governmental organizations.<sup>99</sup> The representative of the Russian Federation cautioned the

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<sup>90</sup> Ibid., p. 9 (Netherlands), p. 11 (Kazakhstan), p. 12 (Equatorial Guinea), p. 14 (Poland), p. 18 (Bolivia, Plurinational State of) and p. 19 (Iraq).

<sup>91</sup> Ibid., p. 16.

<sup>92</sup> Ibid., p. 14.

<sup>93</sup> Ibid., p. 9 (Netherlands), p. 13 (France), p. 14 (Poland) and p. 15 (Sweden).

<sup>94</sup> Ibid., p. 6.

<sup>95</sup> Ibid., p. 7.

<sup>96</sup> Ibid., p. 8 (Russian Federation), p. 16 (China) and p. 17 (Ethiopia).

<sup>97</sup> Ibid., 9.

<sup>98</sup> Ibid., p. 13.

<sup>99</sup> Ibid., p. 11.

Investigative Team’s leadership against any contact with the International Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 established by the General Assembly resolution [71/248](#).<sup>100</sup> Sweden welcomed the Investigative Team’s intention to achieve geographical, gender, ethnic and religious balance among its Iraqi members.<sup>101</sup>

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

During the period under review, the Security Council also recognized the investigative functions of other bodies of the United Nations such as the Office of the High Commissioner for Human Rights and the Human Rights Council in relation to the situations in Burundi, the Central African Republic, the Democratic Republic of the Congo, and South Sudan. Table 4 below features the provisions of Council decisions referring to such functions.

**Table 4**  
**Decisions relating to investigation and inquiry by other bodies of the United Nations acknowledged by the Security Council in 2018**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in Burundi</b>	
<a href="#">S/PRST/2018/7</a> 5 April 2018	The Security Council reiterates its regret at the decision by the Government of Burundi to suspend all cooperation and collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR), which has been present in the country since 1995 to strengthen Burundi’s rule of law institutions, and calls for a swift solution through dialogue between OHCHR and the Government in order to enable OHCHR to fully resume its activities, including its monitoring and reporting functions, and fulfil its mandate. The Security Council recalls the commitments the Government of Burundi undertook during the 36th Session of the Human Rights Council to re-establish full mutual cooperation with the Human Rights Council and OHCHR, including full cooperation with the Office of the High Commissioner in Bujumbura, and to accept the visit of a team of three experts from the Office of the High Commissioner to collect information on the human rights situation in Burundi. It notes that discussions regarding revisions to the draft memorandum of understanding between the Republic of Burundi and the United Nations concerning the updated terms for the Office of the High Commissioner for Human Rights in Burundi have been

<sup>100</sup> Ibid., p. 8.

<sup>101</sup> Ibid., p. 15.

<i>Decision and date</i>	<i>Provision</i>
	ongoing for over a year and urges the Government of Burundi to take steps to swiftly finalize the agreement with OHCHR without further delay (thirteenth paragraph)
<b>The situation in the Central African Republic</b>	
Resolution <a href="#">2448 (2018)</a> 13 December 2018	Stressing the urgent and imperative need to end impunity in the Central African Republic and to bring to justice perpetrators of violations of international humanitarian law and of abuses and violations of human rights, including in the context of the peace process led by the African Initiative, welcoming in this regard the official launch of investigations by the Special Criminal Court (SCC) and the steps initiated by the Government of the Central African Republic in establishing other transitional justice mechanisms to ensure accountability for past crimes and reparation for victims while promoting national reconciliation, 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 Central African Republic (eleventh preambular paragraph)
	Further authorises the United Nations Multidimensional Integrated Stabilisation Mission in the Central African Republic to pursue the following tasks of its mandate, bearing in mind that these tasks as well as those in paragraph 39 above are mutually reinforcing: ... (e) Support for national and international justice, the fight against impunity, and the rule of law ... (ii) To help build the capacities of the national human rights institution coordinating with the Independent Expert on human rights as appropriate (para. 40(e)(ii))
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2409 (2018)</a> 27 March 2018	Reiterates its condemnation of the violence witnessed in the Kasai region over the past year, further reiterates the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations or abuses of human rights in the region, as well as its intention to closely monitor progress of the investigations into these violations and abuses, including the joint investigations by the Government of the Democratic Republic of the Congo, MONUSCO and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo, in order to bring to justice and hold accountable all those responsible, and looks forward to their results; further calls upon the Government of the Democratic Republic of the Congo to continue to cooperate with the team of international experts on the situation in the Kasai regions, as mandated by the Human Rights Council in its resolution <a href="#">35/33</a> , and urges the Government of the Democratic Republic of the Congo to fully cooperate with the United Nations team deployed, as agreed, to assist the Congolese authorities investigations into the deaths of the two United Nations experts in March 2017, and ensure all perpetrators are brought to justice and held accountable (para. 14)
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2406 (2018)</a> 15 March 2018	Taking note of the United Nations Mission in the Republic of the South Sudan and Office of the High Commissioner for Human Rights report on the Freedom of Expression in South Sudan, condemning the use of media to broadcast hate speech and transmit messages instigating violence against a particular ethnic group, a practice that

<i>Decision and date</i>	<i>Provision</i>
	has the potential to play a significant role in promoting mass violence and exacerbating conflict, and calling on the Government of South Sudan to immediately condemn and counter increasing hate speech and ethnic violence and to promote reconciliation among its people, including through a process of justice and accountability (seventeenth preambular paragraph)

Council members made reference to the investigative functions of the OPCW and the Human Rights Council in their written communications. For example, in a letter dated 10 January 2018, the United States provided an assessment of the positions of the Russian Federation regarding the use of chemical weapons in the Syrian Arab Republic, including the work of the OPCW fact-finding mission and the OPCW-United Nations Joint Investigative Mechanism.<sup>102</sup> On 22 January 2018, the Russian Federation submitted a letter transmitting the comment by the Ministry of Foreign Affairs of the Russian Federation “on United States attempts to distort Russian approaches to investigating the use of chemical weapons in Syria”.<sup>103</sup> Furthermore, in connection with the events in Salisbury, United Kingdom, the Russian Federation submitted a letter on 21 March 2018 calling on the OPCW to provide an official, detailed report on all aspects of the Skripal case and for the OPCW Technical Secretariat to conduct a comprehensive, independent investigation that complied with all the relevant provisions of the Chemical Weapons Convention.<sup>104</sup>

Regarding the situation in Myanmar, in a letter dated 27 September 2018, addressed to the President of the Council, the representative of the United Kingdom brought to the Council’s attention the report of the detailed findings of the independent international fact-finding mission on Myanmar dated 17 September 2018.<sup>105</sup> In their letter dated 16 October 2018, nine Council members requested a meeting of the Council on the situation in Myanmar and a formal briefing to the Council by the Chair of the fact-finding mission on Myanmar, which would enable its members to receive further information on the situation and its implications for international peace and security.<sup>106</sup> In a letter dated 16 October 2018 addressed to the President of the Council,

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<sup>102</sup> [S/2018/35](#).

<sup>103</sup> [S/2018/54](#).

<sup>104</sup> [S/2018/252](#).

<sup>105</sup> [S/2018/879](#).

<sup>106</sup> [S/2018/926](#).



the Permanent Representative of Myanmar to the United Nations strongly objected to the invitation of the fact-finding mission to brief the Council citing concerns regarding the mandate, sincerity and independence of the mission and that such an exercise would be beyond the mandate of the Human Rights Council and set a bad precedent with serious negative consequences.<sup>107</sup> Similarly, in a letter dated 18 October 2018, the representatives of the Plurinational State of Bolivia, China, Equatorial Guinea and the Russian Federation strongly objected to the holding of the requested meeting, maintaining that it was outside the fact-finding mission's mandate, that it would set a bad precedent for the Council and would erode the mandate and duplicate the work of the General Assembly and the Human Rights Council.<sup>108</sup> At its 8381<sup>st</sup> meeting held on 24 October 2018 under the item entitled "The situation in Myanmar", the Council was briefed by the Chairperson of the independent international fact-finding mission on Myanmar on the findings and recommendations contained in the report of the fact-finding mission dated 12 September 2018.<sup>109</sup>

Further to the meeting held on 10 April 2018, to consider three draft resolutions regarding the investigation of alleged chemical weapons attacks in the Syrian Arab Republic (see case 2), the Council also discussed the mandate and work of the OPCW fact-finding mission (see case 4).

#### **Case 4**

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

On 6 September 2018, at the 8344<sup>th</sup> meeting of the Council held under the item entitled "The situation in the Middle East", the High Representative for Disarmament Affairs briefed the Council further to the fifty-ninth monthly report of the Director-General of the OPCW submitted pursuant to resolution [2118 \(2013\)](#). The High Representative noted that, on 6 July 2018, the OPCW Technical Secretariat issued an interim report of the OPCW fact-finding mission in the Syrian Arab Republic regarding the incident of alleged use of toxic chemicals as a weapon in

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<sup>107</sup> [S/2018/929](#).

<sup>108</sup> [S/2018/938](#).

<sup>109</sup> [S/PV.8381](#).



Douma on 7 April 2018 which was circulated to the Council.<sup>110</sup> She added that the fact-finding mission continued to collect and analyse information and would provide a final report on its findings in due course, and highlighted its activities pertaining to four additional incidents, including in Kharbit Massanah on 7 July and 4 August 2017, Al Salamiyah on 9 August 2017 and Souran on 8 November 2017. The High Representative further informed the Council that, at its fourth special session held in June, the Conference of State Parties to the Chemical Weapons Convention decided, inter alia, that the OPCW Secretariat should “put in place arrangements to identify the perpetrators of the use of chemical weapons in the Syrian Arab Republic ... in those instances in which the OPCW fact-finding Mission in Syria determines or has determined that use or likely use occurred, as well as case for which the OPCW-United Nations Joint Investigative Mechanism had not issued a report”.<sup>111</sup>

Along with other speakers, the representative of Poland condemned the use of chemical weapons in the Syrian Arab Republic and expressed her delegation’s conviction that those responsible for such attacks had to be held accountable. She further noted that it was crucial to preserve the integrity of the Chemical Weapons Convention and therefore stated that Poland was looking forward to the development by the OPCW of arrangements necessary to identify the perpetrators in accordance with the decision of the fourth special session of the Conference of State Parties.<sup>112</sup> The representative of Peru added that it was critical that such investigations be able to identify perpetrators of those serious crimes, with a view to guaranteeing accountability and access to justice, as well as the effectiveness of an international rules-based order.<sup>113</sup> The representative of the Netherlands called for follow-up to the conclusions of the OPCW fact-finding mission and its future attribution mechanism by referring the situation in the Syrian Arab Republic to the International Criminal Court and the sharing of information with the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic.<sup>114</sup> The representative of Equatorial Guinea stated that

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<sup>110</sup> [S/2018/732](#).

<sup>111</sup> [S/PV.8344](#), pp. 2-3.

<sup>112</sup> *Ibid.*, p. 6.

<sup>113</sup> *Ibid.*, p. 4.

<sup>114</sup> *Ibid.*, p. 13.

access to places of investigation required that the security of the OPCW fact-finding mission be guaranteed on a permanent basis.<sup>115</sup>

The representative of the Russian Federation described the decision by the OPCW Technical Secretariat as not legitimate because it was not in line with the goals of the Chemical Weapons Convention and not recognized by the Russian Federation.<sup>116</sup> The representative of Bolivia stated that it was essential that any investigation into the use or possible use of chemical weapons include on-site visits as a critical element, with the aim of conducting conclusive and verifiable investigations. He also opined that, regardless of the powers granted to the Technical Secretariat and the Director-General of the OPCW at the fourth session of the Conference of State Parties to the Chemical Weapons Convention, the Council still had the obligation to reach consensus on the creation of an independent, impartial and representative investigative mechanism.<sup>117</sup>

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<sup>115</sup> Ibid., p. 8.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid., pp. 9-10.

### **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) and (3), the Council should take into consideration procedures for the settlement of the dispute already adopted by the parties and 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 2018 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 and are covered in parts VII and X. Subsections A to C illustrate ways in which 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. Subsection D addresses regional arrangements and agencies, noting that decisions of the Council in support of the pacific settlement of disputes by regional organizations are covered in part VIII.

#### **A. Decisions of the Security Council concerning thematic issues**

The present subsection provides an overview of the decisions of the Security Council adopted on thematic issues that relate to the pacific settlement of disputes. During the period

under review, the Council's decisions highlighted, among other, the obligation of parties to the peaceful settlement of disputes, the importance of conflict prevention and sustaining peace, the good offices and mediation role of the Secretary-General, and the importance of inclusivity in the pacific settlement of disputes. A more detailed description of the decisions of the Council decisions relating to these subjects is set out below.

### **Pacific settlement of disputes**

The Council recalled that the parties to any dispute, the continuance of which was likely to endanger the maintenance of international peace and security, should, 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, and urged such parties to settle their disputes by such means.<sup>118</sup>

### **Conflict prevention and resolution and sustaining peace**

More broadly on conflict prevention, the Council expressed concern over the growing number of conflicts in different geographic areas all over the globe and underlined the urgent need for redoubled efforts for their prevention and resolution.<sup>119</sup> The Council underlined the importance of promoting the ability of the United Nations to deliver on its founding determination to save succeeding generations from the scourge of war and putting emphasis on conflict prevention, preventive diplomacy, peacebuilding and sustaining peace in light of the increasingly transnational nature of the causes, consequences and contributing factors of conflict.<sup>120</sup>

The Council recalled that a comprehensive conflict prevention strategy should include, inter alia, early warning, preventive deployment, mediation, peacekeeping, non-proliferation, accountability measures as well as post-conflict peacebuilding and recognized that those components were interdependent, complementary, and non-sequential.<sup>121</sup> The Council stressed that the prevention of conflict remained a primary responsibility of States and that actions undertaken within this framework by the United Nations should support and complement the

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<sup>118</sup> [S/PRST/2018/1](#), fourth paragraph.

<sup>119</sup> *Ibid.*, third paragraph.

<sup>120</sup> *Ibid.*, seventh paragraph.

<sup>121</sup> *Ibid.*, eleventh paragraph.

roles of national governments.<sup>122</sup> For the maintenance of international peace and security, the Council underlined a profound need to focus on, inter alia, advancing further conflict prevention and preventive diplomacy tools, facilitating the Council's consideration of prevention issues and streamlining activities, enhancing and strengthening the role of its Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.<sup>123</sup> Specifically, in reference to Afghanistan, the Council encouraged the United Nations to address the conflict in that country in a comprehensive manner with the use of preventive diplomacy tools in support of durable peace and prosperity.<sup>124</sup>

With respect to early warning, the Council acknowledged that serious abuses and violations of human rights or violations of international humanitarian law, including against children, could be an early indication of a descent into conflict or escalation of conflict, as well as a consequence thereof.<sup>125</sup> The Council further expressed its commitment to consider and use the tools of the United Nations system to ensure that early warning of potential conflicts was translated into early, concrete preventive action, including towards the goal of protecting children and with a view to building sustainable peace.<sup>126</sup>

The Council recognized that sustaining peace should be understood as a goal and a process to build a common vision of a society, ensuring that the needs of all segments of the population were taken into account, 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.<sup>127</sup> Sustaining peace, according to the Council, was also a shared task and responsibility that needed to be fulfilled by the government and all other national stakeholders and that flowed through all three pillars of the engagement of the United Nations at all stages of conflict.<sup>128</sup> For attaining sustainable peace, including through engagement on conflict prevention and peacebuilding, the Council emphasized the importance of, inter alia, creating potential for scrutinizing the specific relationship between security and development,

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<sup>122</sup> Resolution [2427 \(2018\)](#), para. 9.

<sup>123</sup> [S/PRST/2018/1](#), twenty-second paragraph.

<sup>124</sup> [S/PRST/2018/2](#), twenty-first paragraph.

<sup>125</sup> Resolution [2427 \(2018\)](#), para. 7.

<sup>126</sup> *Ibid.*, para. 8

<sup>127</sup> [S/PRST/2018/20](#), second paragraph.

<sup>128</sup> *Ibid.*

utilizing a revamped regional approach, and strengthening coordination within the United Nations.<sup>129</sup> The Council further recognized that United Nations police, justice and corrections components in peace operations could contribute to building and sustaining peace by supporting host States.<sup>130</sup>

In the context of United Nations peacekeeping operations, 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, good offices, the monitoring of ceasefires, and assistance to the implementation of peace accords and that the political solutions should guide the design and deployment of such operations.<sup>131</sup> The Council further stressed that political solutions were the cornerstone of mandate implementation, and remained key to reach sustainable peace and security.<sup>132</sup>

The Council recognized that effective peacebuilding must involve the entire United Nations system and emphasized the importance of joint analysis and effective strategic planning.<sup>133</sup> The Council acknowledged the important role played by the Peacebuilding Commission as a dedicated intergovernmental advisory body to bring coherence to international peacebuilding efforts.<sup>134</sup> The Council underscored the importance of peacebuilding, emphasized the need for engaging and collaborating with regional actors in policy related and country-specific issues and acknowledged the significant role of the Peacebuilding Commission and United Nations Integrated Peacebuilding Offices, inter alia, in supporting national efforts to build and sustain peace, as well as addressing cross-border threats in accordance with existing mandates.<sup>135</sup>

### **Good offices and mediation role of the Secretary-General**

The Council encouraged the Secretary-General to continue enhancing the use of his good offices, dispatching Representatives, Special Envoys and mediators, to help facilitate durable, inclusive and comprehensive settlements and to continue his early engagement in the prevention

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<sup>129</sup> [S/PRST/2018/1](#), twenty-fourth paragraph.

<sup>130</sup> Resolution [2447 \(2018\)](#), para. 8.

<sup>131</sup> [S/PRST/2018/10](#), fourth paragraph.

<sup>132</sup> *Ibid.*

<sup>133</sup> [S/PRST/2018/20](#), eighth paragraph.

<sup>134</sup> *Ibid.*, ninth paragraph.

<sup>135</sup> [S/PRST/2018/1](#), eighteenth paragraph.

of potential conflicts.<sup>136</sup> The Council also encouraged the Secretary-General, inter alia, to enhance the ability of the United Nations to coherently support Member States' pacific settlement of disputes and to ensure the better use of conflict prevention and preventive diplomacy tools, in cooperation with regional and sub-regional organizations and other relevant actors.<sup>137</sup> The Secretary-General was further encouraged to provide periodic updates to the Council on the status of conflict prevention and preventive diplomacy efforts.<sup>138</sup>

The Council specifically stressed the important role of the Special Representative of the Secretary-General for Children and Armed Conflict in carrying out her mandate regarding the protection of children affected by armed conflict, including facilitating better collaboration between the United Nations and concerned Governments and in supporting the enhancing of dialogue with concerned United Nations agencies, Governments and parties to an armed conflict.<sup>139</sup>

#### **Women, youth and child protection concerns in the pacific settlement of disputes**

The Council stressed the importance of women's empowerment and equal participation in all efforts for the maintenance and promotion of peace and security and the need to increase the role and leadership of women in decision-making and with regard to conflict prevention and resolution and peacebuilding.<sup>140</sup> The Council noted the substantial link between women's full and meaningful involvement in efforts to prevent, resolve and rebuild from conflict and those efforts' effectiveness and long-term sustainability.<sup>141</sup> The Council stressed the importance of increasing women's role in decision-making and with regard to conflict prevention and resolution and peacebuilding, including in national, regional and international institutions and mechanisms for the prevention and resolution of conflict, and the consideration of gender-related issues in all discussions pertinent to sustaining peace.<sup>142</sup>

The Council recognized the important and positive contribution of youth in efforts for the maintenance and promotion of peace and security, and further affirmed the important role youth

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<sup>136</sup> Ibid., fourteenth paragraph.

<sup>137</sup> Ibid., sixteenth paragraph.

<sup>138</sup> Ibid., twenty-fifth paragraph.

<sup>139</sup> Resolution [2427 \(2018\)](#), para. 5.

<sup>140</sup> [S/PRST/2018/1](#), nineteenth paragraph.

<sup>141</sup> [S/PRST/2018/10](#), sixteenth paragraph.

<sup>142</sup> Ibid.



could play in the prevention and resolution of conflicts and as a key aspect of the sustainability, inclusiveness and success of peacekeeping and peacebuilding efforts.<sup>143</sup> The Council called on all relevant actors to consider ways to increase the inclusive representation of youth for the prevention and resolution of conflict, including when negotiating and implementing peace agreements, to take into account the meaningful participation and views of youth.<sup>144</sup> The Council further recognized the role of youth in promoting a culture of peace and inter-cultural and inter-religious dialogue aimed at discouraging their participation in acts of violence and that youth and youth-led civil society could also play an important role in peacebuilding and sustaining peace efforts.<sup>145</sup> The Council further recommended the Peacebuilding Commission to include in its discussions and advice ways to engage youth meaningfully in national efforts to build and sustain peace and urged the Secretary-General and his Special Envoys to take into account the views of youth in relevant discussions and to facilitate the equal and full participation of youth at decision-making levels, paying particular attention to the inclusion of young women.<sup>146</sup>

The Council stated that it remained convinced that the protection of children should be an important aspect of any comprehensive strategy to prevent and resolve conflict as well as to build and sustain peace.<sup>147</sup> In this regard, Member States and the United Nations were called upon to mainstream child protection into all relevant activities in conflict prevention, conflict and post-conflict situations with the aim of sustaining peace and preventing conflict.<sup>148</sup> The Council welcomed the launch of a process to compile practical guidance on the integration of child protection issues in peace processes and underlined the importance of engaging armed forces and armed groups on child protection concerns during peace and peacebuilding processes.<sup>149</sup> Furthermore, in relation to the situation in Afghanistan, the Council underlined the importance of paying due attention to child protection concerns within peace and reconciliation efforts.<sup>150</sup>

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<sup>143</sup> [S/PRST/2018/1](#), twentieth paragraph.

<sup>144</sup> Resolution [2419 \(2018\)](#), para. 2.

<sup>145</sup> *Ibid.*, paras. 9 and 10.

<sup>146</sup> *Ibid.*, paras. 15 and 16.

<sup>147</sup> [S/PRST/2018/1](#), twenty-first paragraph.

<sup>148</sup> Resolution [2427 \(2018\)](#), para. 3.

<sup>149</sup> *Ibid.*, para. 22.

<sup>150</sup> [S/PRST/2018/2](#), eleventh paragraph.

## **B. Recommendations of the Security Council concerning country-specific and regional situations**

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 relating to the pacific settlement of disputes in situations specific to a country or region. In dealing with complex situations in 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 Chapter VI with a view to restoring peace and to recommending procedures or methods for the pacific settlement of disputes. With the exception of one explicit reference to Article 33 of the Charter in a decision relating to the situation in Somalia, described below, the decisions featured in this overview do not include those adopted expressly under Chapter VII of the Charter which are covered in parts VII and X.

In 2018, the Council made a wide range of recommendations for the peaceful settlement, as in previous periods, of primarily intra-State conflicts. As described in the overview below, the Council called on the parties to cease hostilities and implement permanent ceasefires; implement inclusive peace, reconciliation and state-building processes; resolve outstanding political disputes; and addressing the root causes of conflict.

### **Cessation of hostilities and ceasefire**

With grave security and humanitarian conditions in the Syrian Arab Republic and Yemen continuing, the Council urged warring parties to immediately cease hostilities and create conditions for a permanent ceasefire. The Council further welcomed the unilateral cessation of

hostilities by the parties in Darfur and called for the full respect and implementation of the ceasefire terms in the Golan Heights, Lebanon and Ukraine.

Under the item entitled “The situation in the Middle East”, the Council addressed the situation in the Golan Heights, Lebanon, the Syrian Arab Republic and Yemen.<sup>151</sup> In regard to the Golan Heights, the Council once again stressed the obligation of Israel and the Syrian Arab Republic to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement, called on the parties to exercise maximum restraint and prevent any breaches of the ceasefire and the area of separation, and encouraged the parties to take advantage of the liaison function of the United Nations Disengagement Observer Force to address issues of mutual concern.<sup>152</sup> In connection with the situation in Lebanon, the Council reiterated its call for Israel and Lebanon to support a permanent ceasefire and a long-term solution.<sup>153</sup>

With respect to the conflict in the Syrian Arab Republic, by resolution [2401 \(2018\)](#) of 24 February 2018, the Council demanded that all parties cease hostilities without delay, and engage immediately to ensure full and comprehensive implementation of this demand, for a durable humanitarian pause for at least 30 consecutive days throughout Syria, to enable the safe, unimpeded and sustained delivery of humanitarian aid.<sup>154</sup> The Council called upon all parties to respect and fulfil their commitments to existing ceasefire agreements, including the full implementation of resolution [2268 \(2016\)](#), and upon Member States to use their influence with the parties to ensure implementation of the cessation of hostilities, the fulfilment of existing commitments and to support efforts to create conditions for a durable and lasting ceasefire.<sup>155</sup> The Council also recalled its demand for the full and immediate implementation of resolution [2254 \(2015\)](#) to facilitate a Syrian-led and Syrian-owned political transition, in accordance with the Geneva Communiqué as set forth in the International Syria Support Group Statements, in order to end the conflict.<sup>156</sup>

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<sup>151</sup> For more information, see part I, sect. 23, “The situation in the Middle East”.

<sup>152</sup> Resolutions [2426 \(2018\)](#), para. 2 and [2450 \(2018\)](#), para. 2. For more information on the mandate of the United Nations Disengagement Observer Force, see part X, sect. I, “Peacekeeping operations”.

<sup>153</sup> Resolution [2433 \(2018\)](#), para. 4.

<sup>154</sup> Resolution [2401 \(2018\)](#), para. 1.

<sup>155</sup> *Ibid.*, para. 3.

<sup>156</sup> Resolution [2449 \(2018\)](#), para. 5.

Regarding the conflict in Yemen, while expressing its grave concern at the continued deterioration of the humanitarian situation, the Council called upon all parties to abandon pre-conditions and engage in good faith with the United Nations-led process, with the meaningful participation of women and other underrepresented groups in order to overcome obstacles and reach a political solution.<sup>157</sup> Upon the conclusion, on 13 December 2018, of the Stockholm Agreement regarding the city of Hodeidah and the ports of Hodeidah, Salif and Ras Issa, an executive mechanism on activating the prisoner exchange agreement, and a statement of understanding on Taïz, the Council called on the parties to implement the Agreement according to the timelines determined in it.<sup>158</sup> The Council insisted on the full respect by all parties of the ceasefire agreed for Hodeidah governorate and the mutual redeployment of forces and further called on the parties to continue to engage constructively, in good faith and without preconditions, with the Special Envoy of the Secretary-General for Yemen, including on continued work towards stabilizing the Yemeni economy and on Sana'a airport, and participating in a next round of talks in January 2019.<sup>159</sup>

Under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, in connection with the situation in Darfur, the Council demanded that all parties to the conflict immediately cease all acts of violence and commit themselves to a sustained and permanent ceasefire.<sup>160</sup> The Council reiterated its support for the Doha Document for Peace in Darfur as a viable framework for the peace process in Darfur and demanded that the non-signatory armed movements refrain from impeding its implementation.<sup>161</sup> The Council further urged the Government of the Sudan and the armed movements to make immediate progress on the implementation of the Roadmap Agreement, including the signing of cessation of hostilities and humanitarian assistance agreements among the parties and further urged the non-signatory armed groups to sign it without delay.<sup>162</sup> In a presidential statement issued on 11 December 2018, the Council, whilst welcoming the announcement of the unilateral cessation of hostilities

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<sup>157</sup> [S/PRST/2018/5](#), twelfth paragraph.

<sup>158</sup> Resolution [2451 \(2018\)](#), para. 3.

<sup>159</sup> *Ibid.*

<sup>160</sup> Resolution [2429 \(2018\)](#), para. 34. For more information, see part I, sect. 10, “Reports of the Secretary-General on the Sudan and South Sudan”.

<sup>161</sup> [S/PRST/2018/4](#), fourth paragraph.

<sup>162</sup> *Ibid.*

by the Government and by the armed movements, including by the Sudan Liberation Army/Abdel Wahid, urged all parties to adhere to their unilateral cessations of hostilities and to allow unhindered humanitarian access to populations in need.<sup>163</sup>

Under the item entitled “Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council ([S/2014/136](#))”, the Council condemned the continuous violations of the ceasefire regime in eastern Ukraine, and called for the implementation of disengagement commitments.<sup>164</sup> The Council further encouraged all parties to recommit to the peace process and to implement measures in order to achieve immediate progress in the implementation of the Minsk Agreements.<sup>165</sup>

### **Implementation of inclusive peace, state-building and reconciliation processes**

Referring to the situations in Afghanistan, the Central African Republic, Libya and Somalia the Council called for the parties on the ground to implement inclusive peace, state-building and reconciliation processes, particularly taking note of the need for the creation of conditions for the conduct of peaceful and credible elections. The Council also urged genuine dialogue to resolve the outstanding political crises in Burundi and Guinea-Bissau and underscored the importance of peaceful, transparent and credible elections in the West African region.

In connection with 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, including the effective and meaningful participation of women, as laid forth in the Kabul Conference Communiqué on dialogue for all those who as part of an outcome of such a process renounced violence, had no links to international terrorist organizations, respected the Constitution, and were willing to join in building a peaceful Afghanistan.<sup>166</sup> In relation to the parliamentary and district council elections on 20 October 2018 and the 2019 presidential elections, the Council

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<sup>163</sup> [S/PRST/2018/19](#), fourth paragraph.

<sup>164</sup> [S/PRST/2018/12](#), second paragraph. For more information, see part I, sect. 21, “Items relating to Ukraine”.

<sup>165</sup> [S/PRST/2018/12](#), fifth paragraph.

<sup>166</sup> Resolution [2405 \(2018\)](#), para. 10. See also [S/PRST/2018/2](#), third, fourth and tenth paragraphs. For more information, see part I, sect. 17, “The situation in Afghanistan”.

called on all parties concerned to adhere to the fundamental requirements laid out by the electoral law and all other relevant regulations and to uphold the highest standards of integrity throughout this important and historical process, so that the final outcome reflected the will of the people of Afghanistan.<sup>167</sup>

On the situation in Burundi, the Council reiterated its deep concern over the slow progress in the inter-Burundian dialogue and called for all Burundian stakeholders to participate actively and unconditionally in this process.<sup>168</sup> It added that it was crucial that all parties, most especially the Government, commit to the East Africa Community-led process and reach an agreement ahead of the 2020 elections and stressed that dialogue was the only viable process for a sustainable political settlement in Burundi.<sup>169</sup> The Council further called on States in the region to contribute to finding a political solution in Burundi, refrain from any interference, and to respect their obligations under international law.<sup>170</sup>

Under the item entitled “Central African region” and in connection with the conflict in the Central African Republic, the Council urged the armed groups in that country to cease all forms of violence and destabilising activities, lay down their arms immediately and unconditionally, and engage constructively in the peace process.<sup>171</sup> Taking note of planned elections across the Central African region in the upcoming period, the Council emphasized the need for national stakeholders to work together to facilitate the timely preparation for, and the holding of, peaceful, transparent and credible elections with a level playing field for all candidates and the full, equal and effective participation of women.<sup>172</sup>

In connection with “The situation in the Central African Republic” item, the Council reiterated its support to President Faustin-Archange Touadera in his efforts to promote lasting peace and stability in the Central African Republic and called on the authorities to take all necessary steps, without delay, to advance the dialogue with armed groups and promote national

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<sup>167</sup> [S/PRST/2018/15](#), sixth paragraph.

<sup>168</sup> [S/PRST/2018/7](#), second paragraph. For more information, see part I, sect. 4, “The situation in Burundi”.

<sup>169</sup> [S/PRST/2018/7](#), second paragraph.

<sup>170</sup> *Ibid.*, sixth paragraph.

<sup>171</sup> [S/PRST/2018/17](#), tenth paragraph. For more information, see part I, sect. 9, “Central African Region”.

<sup>172</sup> [S/PRST/2018/17](#), fifteenth paragraph.

reconciliation.<sup>173</sup> The Council underscored the urgent need for further progress in an ambitious and inclusive dialogue between the authorities and the armed groups, as well as segments of society, promoting the full and effective participation of women, and encouraged the President to broaden ownership of the peace process.<sup>174</sup>

Under the item entitled “The situation in Guinea-Bissau”, the Council called upon the stakeholders in Guinea-Bissau to strictly respect and comply with the Conakry Agreement and the Economic Community of West African States Roadmap in addressing their differences and the challenges facing their country.<sup>175</sup> The Council further called upon the authorities and all stakeholders, including the military, political parties, and civil society, to engage in inclusive, genuine dialogue, and work together to consolidate progress made so far, and to address the root causes of instability.<sup>176</sup>

The Council reaffirmed its endorsement and full support for the United Nations Action Plan for Libya and reiterated its call for all Libyans to work together in a spirit of compromise in the inclusive political process under the leadership of the Special Representative of the Secretary-General for Libya.<sup>177</sup> The Council welcomed all efforts to strengthen an inclusive political dialogue among all Libyans within the framework of the Libyan Political Agreement, which remained the only viable framework to end the political crisis.<sup>178</sup> The Council called upon all Member States to urge all Libyans to work constructively to ensure that the required conditions were in place for national elections, as well as to promote the meaningful and equal participation of women in the political process, including the election process.<sup>179</sup>

With respect to the situation in Somalia, the Council welcomed the commitment of the Federal Government of Somalia, in accordance with the rule of law, to continue to make progress on inclusive transparent and accountable state-building and federalism through the next phase of the constitutional review process, and further welcomed the commitment of the

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<sup>173</sup> [S/PRST/2018/14](#), third paragraph. For more information, see part I, sect. 7, “The situation in the Central African Republic”.

<sup>174</sup> *Ibid.*, fourth paragraph.

<sup>175</sup> Resolution [2404 \(2018\)](#), para. 6. For more information, see part I, sect. 8, “The situation in Guinea-Bissau”.

<sup>176</sup> Resolution [2404 \(2018\)](#), para. 9.

<sup>177</sup> [S/PRST/2018/11](#), first paragraph. For more information, see part I, sect. 13, “The situation in Libya”.

<sup>178</sup> [S/PRST/2018/11](#), second paragraph.

<sup>179</sup> *Ibid.*, fifth paragraph.



Government and Federal Member States to work closely together in this regard and encouraged dialogue with civil society and the Somali public, including the integration of women and youth.<sup>180</sup> The Council urged the Federal Government and Federal Member States to pursue reconciliation talks at local, regional and national level, including a resumption of the dialogue with “Somaliland”.<sup>181</sup> The Council also urged the Federal Government and Federal Member States to prioritise efforts to implement the national security architecture agreement.<sup>182</sup>

In connection with the item entitled “Peace consolidation in West Africa”, the Council welcomed the positive developments in several West African countries, including continued efforts to carry out political, constitutional and security sector reforms to improve governance, consolidate democracy and increase peaceful participation, as well as steps being taken to promote human rights, and encouraged national stakeholders, including civil society, to continue to engage in dialogue in a spirit of tolerance and inclusivity.<sup>183</sup> The Council further emphasized the need for national stakeholders to work together to facilitate the timely preparation for and holding of peaceful, transparent and credible elections and work towards the increased participation of women.<sup>184</sup> Reiterating its concern over the situation in Guinea-Bissau, the Council called upon all political leaders to uphold the provisions of the Conakry Accords and to complete its implementation without further delay.<sup>185</sup>

### **Resolution of outstanding disputes**

In connection with the situation in Cyprus, the Abyei Area, the border between the Sudan and South Sudan, and Western Sahara, the Council called on parties to resolve outstanding disputes through dialogue with a view to reaching a political settlement.

Regarding “The situation in Cyprus”, the Council called upon the Greek Cypriot and Turkish Cypriot leaders to put their efforts behind further work on reaching convergences on the core issues, intensifying work with the Technical Committees with the objective of enhancing intercommunal contacts and improving daily lives of Cypriots, improving the public atmosphere

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<sup>180</sup> Resolution [2408 \(2018\)](#), para. 11. For more information, see part I., sect. 3, “The situation in Somalia”.

<sup>181</sup> Resolution [2408 \(2018\)](#), para. 12.

<sup>182</sup> [S/PRST/2018/13](#), seventh paragraph.

<sup>183</sup> [S/PRST/2018/3](#), fourth paragraph. For more information, see part I, sect. 11, “Peace consolidation in West Africa”.

<sup>184</sup> [S/PRST/2018/3](#), fifth paragraph and [S/PRST/2018/16](#), sixth paragraph.

<sup>185</sup> [S/PRST/2018/3](#), eighth paragraph.



for negotiation to secure a settlement, and increasing the participation of civil society in the process as appropriate.<sup>186</sup> The Council also called upon them to actively engage with openness and creativity, fully commit to a settlement process under United Nations auspices, use the United Nations consultations to restart negotiations, and avoid any actions that might damage the chances of success.<sup>187</sup> The Council further stressed the importance of the full and effective participation of civil society and women in particular at all stages of the peace process and further stressed the importance of the full and effective participation of youth.<sup>188</sup>

Regarding the disputed Abyei Area, under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, the Council requested the Governments of the Sudan and South Sudan to take certain steps towards the implementation of the 20 June 2011 Agreement to resolve the final status of Abyei, to make progress toward the establishment of Abyei Area interim institutions, including through implementation of all Abyei Joint Oversight Committee decisions, to implement confidence-building measures among the communities in the Abyei area, ensuring the involvement of women at all stages.<sup>189</sup> The Council also reiterated its determination that the Sudan and South Sudan should demonstrate measurable progress on border demarcation, outlining specific measures the parties would need to take as part of the Council’s determination to extend the mandate of United Nations Interim Security Force for Abyei (UNISFA) to support the Joint Border Verification and Monitoring Mechanism.<sup>190</sup>

Under the item entitled “The situation in Somalia”, in connection with Djibouti and Eritrea, acting under Chapter VII of the Charter, the Council urged the two parties to continue efforts to settle their border dispute peacefully in a manner consistent with international law by conciliation, arbitration or judicial settlement, or by any other means of pacific dispute settlement identified in Article 33 of the Charter upon which they agree.<sup>191</sup> The Council also

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<sup>186</sup> Resolutions [2398 \(2018\)](#), para. 4 and [2430 \(2018\)](#), para. 5. For more information, see part I, sect. 19., “The situation in Cyprus”.

<sup>187</sup> Resolution [2430 \(2018\)](#), para. 2.

<sup>188</sup> *Ibid.*, paras. 8 and 9.

<sup>189</sup> Resolution [2416 \(2018\)](#), paras. 6 and 16. For more information, see part I, sect. 10, “Reports of the Secretary-General on the Sudan and South Sudan”.

<sup>190</sup> Resolutions [2412 \(2018\)](#), paras. 1 and 3 and [2438 \(2018\)](#), paras. 1 and 3.

<sup>191</sup> Resolution [2444 \(2018\)](#), para. 7.

urged Eritrea and Djibouti to engage on the issue of the Djiboutian combatants missing in action, including through the mediation of any relevant party of their own choosing.<sup>192</sup>

In relation to “The situation concerning Western Sahara”, the Council emphasized the need to make progress toward a realistic, practicable and enduring political solution based on compromise.<sup>193</sup> The Council reiterated its call upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith and its call upon neighbouring states to make important contributions to the political process and to increase their engagement in the negotiating process.<sup>194</sup> Expressing its full support for the renewed negotiations process expected before the end of 2018, the Council encouraged Morocco, the Frente Polisario, Algeria, and Mauritania to work constructively with the Personal Envoy of the Secretary-General, in the spirit of compromise, through the duration of this process to ensure a successful outcome.<sup>195</sup>

### **Addressing the root causes of conflict and peacebuilding**

Regarding the situation in Liberia, and in the context of the Liberia Peacebuilding Plan submitted by the Secretary-General to the Council pursuant to resolution [2333 \(2016\)](#), the Council emphasized the need for expanded efforts by the authorities to address the root causes of conflict, reinvigorate reconciliation processes, promote land reform, advance constitutional and institutional reforms, promote women’s and youth’s active participation in peacebuilding, extend state authority and social services throughout the country, continue to improve respect for human rights, and build trust between Liberian citizens and the government institutions.<sup>196</sup>

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

While Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, the Charter does not specifically define the role of the

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<sup>192</sup> Ibid., para. 6.

<sup>193</sup> Resolution [2414 \(2018\)](#), para. 2. For more information, see part I, sect. 1, “The situation concerning Western Sahara”.

<sup>194</sup> Resolution [2414 \(2018\)](#), paras. 3 and 4.

<sup>195</sup> Resolution [2440 \(2018\)](#), para. 3.

<sup>196</sup> [S/PRST/2018/8](#), fifth paragraph. For more information, see part I, sect. 2, “The situation in Liberia”.

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.

During the period under review, the Council recognized the good offices work of the Secretary-General, as well as his Special Representatives and Special Envoys, in efforts to end violence through the cessation of hostilities and the implementation of permanent ceasefires, inclusive political and reconciliation processes, the resolution of outstanding disputes, supporting political transitions and peacebuilding, and addressing cross-border threats and cross-cutting issues.

### **Good offices to end violence**

The Council welcomed the appointment of the Special Envoy of the Secretary-General for Yemen, affirmed its support for his mission, and called on all parties to allow him full and unhindered access to all relevant parties in Yemen.<sup>197</sup> The Council also welcomed the Special Envoy's presentation of a Framework for Negotiations in Stockholm and his plan to discuss it during the next round of talks to pave the way for the resumption of formal negotiation towards a political solution.<sup>198</sup> By resolution [2451 \(2018\)](#) of 21 December 2018, the Council authorized the Secretary-General to establish and deploy an advance team to begin monitoring and to support and facilitate the immediate implementation of the Stockholm Agreement, including the request for the United Nations to chair the Redeployment Coordination Committee.<sup>199</sup>

### **Good offices in support of political and reconciliation processes**

The Council highlighted the role of the Secretary-General in supporting inclusive political, national reconciliation and state-building processes in Afghanistan, Burundi, the Central African region, Guinea-Bissau and Somalia.

In connection with the situation in Afghanistan, having welcomed the Afghan Government's continuing efforts to advance the peace process, the Council encouraged the

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<sup>197</sup> [S/PRST/2018/5](#), twelfth paragraph.

<sup>198</sup> Resolution [2451 \(2018\)](#), para. 4.

<sup>199</sup> *Ibid.*, para. 5.

Government to make use of the good offices of the United Nations Assistance Mission in Afghanistan to support this process as appropriate.<sup>200</sup>

Regarding the situation in Burundi, the Council reiterated its full support to the Secretary-General and his Special Envoy in their efforts to engage and work with the Government of Burundi to help overcome the current political impasse and foster an inclusive reconciliation process.<sup>201</sup> It further called on the Secretary-General and the Government to expeditiously finalize and implement the status of the mission agreement for the Office of the Special Envoy, in order to work with the Government and other concerned stakeholders to support the East Africa Community-led inter-Burundian dialogue and in the areas of security and rule of law, engage with all stakeholders to the crisis, and work with all Burundian parties to develop confidence building measures, improve the human rights and security situation, and foster an environment conducive to political dialogue.<sup>202</sup>

In reference to the Central African region, the Council recalled the important work of the Special Representative of the Secretary-General for Central Africa and the United Nations Office for Central Africa (UNOCA) in promoting inclusive political dialogue in Chad, Cameroon, Gabon, the Republic of the Congo, Equatorial Guinea, and Sao Tome and Principe, in encouraging stability in the region, and in preventing or mitigating election-related crises.<sup>203</sup> The Council further encouraged the Special-Representative of the Secretary-General and UNOCA to continue to support MINUSCA, and increase regional efforts to advance the peace and reconciliation in the Central African Republic and its road map that was adopted in Libreville on 17 July 2017.<sup>204</sup> The Council also welcomed the support of UNOCA to facilitate the then upcoming elections in the States of the Central African region.<sup>205</sup>

Regarding the Central African Republic, the Council renewed its strong support to the Special Representative of the Secretary-General for the Central African Republic and MINUSCA in the implementation of the mandate of the Mission in support of the Central

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<sup>200</sup> Resolution [2405 \(2018\)](#), para. 10.

<sup>201</sup> [S/PRST/2018/7](#), sixteenth paragraph.

<sup>202</sup> *Ibid.*

<sup>203</sup> [S/PRST/2018/17](#), third paragraph.

<sup>204</sup> *Ibid.*, eleventh paragraph.

<sup>205</sup> *Ibid.*, fifteenth paragraph.

African Republic authorities, including, inter alia, support to the peace process.<sup>206</sup> The Council also welcomed the joint visit in Bangui of the Under-Secretary-General for Peacekeeping Operations and the African Union Commissioner for Peace and Security in April 2018 and underlined the importance of the synergy between the two organizations to support the peace process in the Central African Republic.<sup>207</sup>

In connection with the situation in Guinea-Bissau, the Council called for the implementation of the recommendations of the strategic review mission regarding the need of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) to refocus its existing efforts towards political capacities in support of the good offices of the Special Representative of the Secretary-General for Guinea-Bissau.<sup>208</sup>

Concerning the situation in Libya, the Council reaffirmed its endorsement and full support for the United Nations Action Plan for Libya and political process under the leadership of the Special Representative of the Secretary-General and underscored the importance of the role of the United Nations to facilitate a Libyan-led political solution to the challenges facing the country.<sup>209</sup> The Council also recognized the key role of the Special Representative of the Secretary-General in consulting with Libyan parties to set the constitutional basis for elections and to adopt the necessary electoral laws.<sup>210</sup>

Regarding the situation in Somalia, the Council underscored the importance of the support of the United Nations Assistance Mission in Somalia (UNSOM) to the Somali Government-led inclusive political process, including the provision of United Nations good offices functions to support the Federal Government of Somalia's peace and reconciliation process, in particular with regard to the consolidation of the state formation, mediation, prevention and resolution of conflicts, and constitutional review processes, resource and revenue sharing, improved accountability of Somali institutions, and strengthening of the rule of law.<sup>211</sup>

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<sup>206</sup> [S/PRST/2018/14](#), seventh paragraph.

<sup>207</sup> *Ibid.*, sixth paragraph.

<sup>208</sup> Resolution [2404 \(2018\)](#), para. 2.

<sup>209</sup> [S/PRST/2018/11](#), first paragraph.

<sup>210</sup> *Ibid.*, eleventh paragraph.

<sup>211</sup> Resolution [2408 \(2018\)](#), para. 3.

### **Good offices in support of the resolution of outstanding disputes**

The Council acknowledged the role of the Secretary-General in supporting the re-launching of political negotiations for the resolution of outstanding disputes in connection with the situation in Cyprus, the Abyei Area and Western Sahara.

In connection with Cyprus, the Council welcomed and expressed its full support for the good offices of the Secretary-General to remain available to assist the Greek Cypriot and Turkish Cypriot sides, should they jointly decide to re-engage in negotiations with the necessary political will.<sup>212</sup> The Council also requested the Secretary-General to maintain transition planning in relation to a settlement and encouraged the sides to engage with each other, as well as with the United Nations Peacekeeping Force in Cyprus and the United Nations Good Offices mission in this regard.<sup>213</sup> The Council further urged the sides and all involved to seize the important opportunity presented by the appointment by the Secretary-General of the United Nations Consultant to conduct in-depth consultations on a way forward, by engaging constructively in those negotiations, and renewing their political will and commitment to a settlement under United Nations auspices.<sup>214</sup>

With respect to the situation in the Abyei Area, the Council encouraged the African Union High-level Implementation Panel and the Special Envoy of the Secretary-General for the Sudan and South Sudan to continue coordinating efforts towards calling for full implementation of the 2011 agreements between the two governments.<sup>215</sup> The Council further encouraged UNISFA to coordinate with the Panel and the Special Envoy on reconciliation, community sensitization, and political peace processes.<sup>216</sup>

In connection with the situation concerning Western Sahara, the Council affirmed its full support for the intention of the Secretary-General and his Personal Envoy to relaunch the negotiations with a new dynamic and a new spirit with the aim of reaching a mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles of the Charter of the United

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<sup>212</sup> Resolutions [2398 \(2018\)](#), para. 5 and [2430 \(2018\)](#), para. 6.

<sup>213</sup> *Ibid.*

<sup>214</sup> Resolution [2430 \(2018\)](#), para. 1.

<sup>215</sup> Resolution [2416 \(2018\)](#), para. 8.

<sup>216</sup> Resolution [2445 \(2018\)](#), para. 9.

Nations.<sup>217</sup> The Council further encouraged Morocco, Frente Polisario, Algeria and Mauritania, who had responded positively to the invitation to an initial roundtable meeting in Geneva, to work constructively with the Personal Envoy, in the spirit of compromise, through the duration of this process to ensure a successful outcome.<sup>218</sup>

### **Good offices in support of political transition and peacebuilding**

In connection with the situation with Liberia, the Council welcomed the continued implementation of the Liberia Peacebuilding Plan, entitled “Sustaining Peace and Securing Development”, submitted by the Secretary-General to the Council pursuant to resolution [2333 \(2016\)](#).<sup>219</sup> Expressing its appreciation for the important contribution of the United Nations Mission in Liberia (UNMIL), which completed its mandate on 30 March 2018, the Council requested the Secretary-General to undertake a study of the role of UNMIL in the resolution of conflicts and challenges in Liberia through the contributions of good offices, political mediation, the sanctions regime as well as other relevant factors, that allowed for the successful completion of the Mission’s mandate and transition to the United Nations country team.<sup>220</sup>

### **Good offices to address cross-border challenges**

Concerning West Africa and the Sahel, the Council expressed full support to the Special Representative of the Secretary-General for West Africa and the Sahel and looked forward to ongoing activities undertaken by the United Nations Office for West Africa and Sahel in the areas of conflict prevention, mediation and good offices, sub-regional and regional cooperation to address root causes and cross-border and cross-cutting threats to peace and security, as well as the promotion of good governance.<sup>221</sup>

## **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

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<sup>217</sup> Resolution [2414 \(2018\)](#), para. 13.

<sup>218</sup> Resolution [2440 \(2018\)](#), para. 3.

<sup>219</sup> [S/PRST/2018/8](#), fifth paragraph.

<sup>220</sup> *Ibid.*, third and fourth paragraphs.

<sup>221</sup> [S/PRST/2018/3](#), third paragraph.

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 of this Supplement.



## **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 in 2018 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,<sup>222</sup> Article 36,<sup>223</sup> Article 99,<sup>224</sup> as well as to Chapter VI<sup>225</sup> of the Charter during deliberations, but in most

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<sup>222</sup> In connection with maintenance of international peace and security, see [S/PV.8185](#), p. 21 (Sweden), p. 24 (France), p. 26 (Netherlands); [S/PV.8262](#), p. 16 (Kazakhstan), p. 61 (Ukraine), p. 63 (Germany), p. 73 (Djibouti), p. 74 (Sri Lanka); [S/PV.8334](#), p. 11 (Bolivia (Plurinational State of)), p. 15 (Netherlands), p. 18 (Kuwait), p. 22 (Russian Federation), p. 38 (Ukraine), p. 42 (Germany), p. 46 (Portugal), p. 52 (Sri Lanka), p. 55 (Djibouti), p. 60 (Venezuela (Bolivarian Republic of)), p. 64 (South Africa), p. 66 (Cyprus), p. 69 (Viet Nam), p. 71 (United Arab Emirates) and p. 73 (Armenia); in connection with threats to international peace and security, see [S/PV.8233](#), p. 17 (Ethiopia); in connection with the situation in Somalia, see [S/PV.8398](#), p. 12 (Djibouti); [S/PV.8322](#), p. 8 (Djibouti); in connection with the letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council ([S/2014/136](#)), see [S/PV.8410](#), p. 8 (Kuwait).

<sup>223</sup> In connection with the maintenance of international peace and security, see [S/PV.8262](#), pp. 4 and 7 (Senior Judge on, and President Emeritus of, the International Court of Justice), p. 19 (Peru), p. 24 (Bolivia (Plurinational State of)), p. 39 (Egypt), p. 52 (Italy), p. 71 (Austria) and p. 74 (Djibouti).

<sup>224</sup> In connection with the implementation of the note by the President of the Security Council ([S/2017/507](#)), see [S/PV.8175](#), p. 19 (Sweden), p. 48 (Bangladesh), p. 53 (Australia); [S/PV.8339](#), p. 5 (Kuwait); in connection with maintenance of international peace and security, see [S/PV.8185](#), p. 8 (Kuwait), p. 20 (Peru) and p. 21 (Sweden); [S/PV.8262](#), p. 90 (Slovenia); [S/PV.8395](#), p. 29 (United Kingdom); [S/PV.8334](#), p. 38 (Ukraine) and p. 58 (Italy); in connection with the United Nations peacekeeping operations, see [S/PV.8218](#), p. 66 (Ukraine); in connection with the protection of civilians in armed conflict, see [S/PV.8264](#), p. 57 (Republic of Korea).

<sup>225</sup> In connection with the implementation of the note by the President of the Security Council ([S/2017/507](#)), [S/PV.8173](#), p. 7 (Peru); [S/PV.8175](#), p. 20 (Netherlands), p. 35 (Pakistan), p. 60 (Bahrain); in connection to maintenance of international peace and security, see [S/PV.8185](#), p. 3 (The Secretary-General), p. 7 (Kuwait), p. 17 (Ethiopia), p. 19 (Peru); p. 20 (Sweden); p. 24 (France); [S/PV.8262](#), p. 11 (Poland), p. 14 (Equatorial Guinea), p. 19 (Peru), p. 24 (Bolivia (Plurinational State of)), p. 28 (France), p. 32 (Kuwait), p. 42 (Greece), p. 48 (Pakistan), p. 55 (European Union), p. 59 (Australia), p. 61 (Ukraine), p. 64 (Jamaica), p. 66 (Norway), p. 70 (Kenya), p. 76 (Lebanon), p. 82 (Venezuela (Bolivarian Republic of)), p. 84 (Viet Nam), p. 85 (Portugal), p. 86 (United Arab Emirates), p. 89 (Rwanda) and p. 90 (Slovenia); [S/PV.8293](#), p. 20 (Peru); [S/PV.8395](#), p. 3 (The Secretary-General); p. 10 (Sweden), p. 26 (Ethiopia), p. 29 (United Kingdom), p. 42 (Pakistan), p. 47 (Switzerland), p. 61 (Turkey) and p. 76 (Morocco); [S/PV.8334](#), p. 8 (United Kingdom), p. 11 (Bolivia (Plurinational State of)), p. 12 (Poland), p. 13 (France), p. 16 (Peru), pp. 18-19 (Kuwait), pp. 20-21 (China), p. 27 (Egypt), pp. 28-29 (Pakistan), p. 32 (Liechtenstein), p. 36 (Guatemala), p. 39 (Mexico), p. 50 (Estonia), pp. 53-54 (Cuba), p. 56 (Morocco), p. 60 (Venezuela (Bolivarian Republic of)), p. 63 (Slovenia), p. 64 (Maldives), p. 64-65 (South Africa) and p. 76 (Indonesia); in connection with the Letter dated 13 March 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council ([S/2018/218](#)), [S/PV.8203](#); p. 6 (Peru); in connection with the question concerning Haiti, see [S/PV.8226](#), p. 4 (Bolivia (Plurinational State of)) and p. 6 (Equatorial Guinea); in connection with

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

The section is divided into 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. Referral of legal disputes to the International Court of Justice in the light of Article 36 (3) of the Charter; and D. Utilization of Article 99 by the Secretary-General for the peaceful settlement of disputes. The section features cases in which there were 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 upon the parties to settle their disputes by such means. 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” (cases 5 and 6) and “Women and peace and security” (case 7).

#### **Case 5**

#### **Maintenance of international peace and security**

On 17 May 2018, at the initiative of Poland which held the Presidency for the month,<sup>226</sup> the Council convened a high-level open debate at its 8262<sup>nd</sup> meeting under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Upholding international law within the context of the maintenance of international peace and security”. In her statement read out on behalf of the Secretary-General, the Chef de Cabinet stated that the

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peacebuilding and sustaining peace, see [S/PV.8243](#), p. 19 (Poland); in connection with the situation in the Middle East, including the Palestine question, [S/PV.8244](#), p. 40 (Venezuela (Bolivarian Republic of)); in connection with peace and security in Africa, see [S/PV.8407](#), p. 46 (Venezuela (Bolivarian Republic of)); in connection with cooperation between the United Nations and regional and sub-regional organizations, see [S/PV.8340](#), p. 7 (Kuwait) and p. 8 (United Kingdom); [S/PV.8414](#), p. 36 (Pakistan), p. 37 (Venezuela (Bolivarian Republic of)) and p. 57 (Indonesia).

<sup>226</sup> A concept note was circulated by a letter dated 3 May 2018 addressed to the Secretary-General ([S/2018/417/Rev.1](#)).

Charter of the United Nations did not prescribe the use of any particular means of settlement for disputes between Member States nor did it establish any particular hierarchy among them. Member States, she added, were free to choose between negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. The Security Council could call on States to settle their disputes and draw their attention to the means available to them, recommend to States that they use a particular means of settlement, as well as support States in using the means they had chosen, or it could task the Secretary-General to assist them in trying to reach a settlement or even establishing a subsidiary organ for that purpose.<sup>227</sup>

In the ensuing discussion, the representative Poland described Chapter VI of the Charter as the most useful tool at the international community's disposal in the case of disagreements and imminent conflicts.<sup>228</sup> The representative of Equatorial Guinea stated that, to achieve a just and safe world, it was important to promote the resolution of disputes through peaceful means as an essential part and basic principle of international law enshrined in Chapter VI of the Charter.<sup>229</sup> The representative of Sweden noted that international rules were not only essential for the maintenance of international peace and security but also confirmed the duty of all States to settle disputes by peaceful means.<sup>230</sup> The representative of Italy recalled that States had broad discretion in choosing mechanisms to settle disputes and that they should show good faith and goodwill to settle their differences, including through non-judicial means, provided that those were inspired by adherence to fundamental legal principles.<sup>231</sup> The representative of Argentina maintained that any method for the peaceful settlement of disputes was equally valid for resolving conflicts. Referring specifically to negotiations, he stressed the importance of ensuring that the parties to a dispute comply in good faith with the calls for negotiations made by United Nations bodies and to refrain from any action that could undermine their obligation to resolve the conflict by peaceful means, while States outside of the dispute should also refrain from conduct that could sabotage a peaceful settlement.<sup>232</sup>

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<sup>227</sup> [S/PV.8262](#), pp. 2-3.

<sup>228</sup> *Ibid.*, p. 11.

<sup>229</sup> *Ibid.*, p. 14.

<sup>230</sup> *Ibid.*, p. 21.

<sup>231</sup> *Ibid.*, p. 52.

<sup>232</sup> *Ibid.*, p. 65.

The representative of Ukraine underscored that the principle of the peaceful settlement of disputes also created obligations for the principal organs of the United Nations, including the Security Council, especially in the application of Chapter VI and Chapter VII of the Charter.<sup>233</sup> The representative of Kuwait stated that the Council must use all the tools provided under Chapter VI of the Charter, including negotiation, inquiry, mediation, conciliation, arbitration and judicial settlement, particularly to help prevent the outbreak of conflict.<sup>234</sup> The representative of Jamaica stated that it should be incumbent on the parties involved in a dispute to explore all available prospects for peaceful resolution, and for the United Nations to be able to play a part in facilitating that solution, particularly in the face of protracted disagreements for which all reasonable approaches have not been fully exploited.<sup>235</sup> The representative of Rwanda added that the Council needed to make more effective use of the procedures and framework for the pacific settlement of disputes, particularly Articles 33 to 38 of the Charter.<sup>236</sup>

The representative of Peru stressed the importance of strengthening the capacities of the United Nations in preventive diplomacy and the early warning required for that purpose, in compliance with Articles 34 and 99 of the Charter.<sup>237</sup> The representative of Sweden maintained that the Council had to do more than react to violence by utilizing early warning tools to the fullest extent possible. Noting the commitment of the Secretary-General to conflict prevention and peaceful settlements, the representative of Sweden encouraged him to integrate the relevant international law perspectives and tools more clearly in reporting to the Council.<sup>238</sup> Similarly, the representative of the United Arab Emirates proposed that the Council request a report by the Secretary-General on the various modalities of dispute settlement which would outline the use and practice of such modalities in mitigating disputes.<sup>239</sup>

The representative of Austria underscored the need to enhance national expertise in mediation and preventive diplomacy.<sup>240</sup> The representative of Lithuania highlighted the importance of advancing preventive diplomacy, early action and mediation as vital to prevent

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<sup>233</sup> *Ibid.*, p. 61.

<sup>234</sup> *Ibid.*, p. 32.

<sup>235</sup> *Ibid.*, p. 64.

<sup>236</sup> *Ibid.*, p. 89.

<sup>237</sup> *Ibid.*, p. 19.

<sup>238</sup> *Ibid.*, p. 22.

<sup>239</sup> *Ibid.*, p. 86.

<sup>240</sup> *Ibid.*, p. 71.

conflicts and mass atrocities and described putting an end to impunity and ensuring accountability as crucial elements of conflict prevention.<sup>241</sup> The representative of the European Union called on the Council to continue holding early discussions on situations at risk of violent conflict on a more systematic basis. He added that Council members should also not vote against a credible draft resolution on timely and decisive action to end the commission of genocide, crimes against humanity or war crimes, or to prevent such crimes. Finally, in the same vein, the representative of the European Union stated that the Council could strive to make greater use of Article 34 of the Charter to investigate disputes or situations.<sup>242</sup> The representative of Norway called on the Council to show unity in giving full support to mediation efforts and good offices, including the initiatives of the Secretary-General.<sup>243</sup>

A number of speakers also recognized the important role of regional organizations in the peaceful settlement of disputes.<sup>244</sup> The representative of the Plurinational State of Bolivia stated that the effective application of negotiation, mediation, reconciliation, prevention and the legal arrangements for the peaceful settlement of disputes, as well as the primary use of the provisions of Chapter VI and VIII of the Charter, were indispensable to the analysis and comprehensive consideration of conflicts and their particularities.<sup>245</sup>

## Case 6

### Maintenance of international peace and security

On 29 August 2018, at the initiative of the United Kingdom which held the Presidency during that month,<sup>246</sup> the Council held its 8334<sup>th</sup> meeting under the item entitled “Maintenance of international peace and security”. The Council considered the sub-item entitled “Mediation and settlement of disputes”. In his briefing, the Secretary-General noted that a surge in diplomacy for peace was one of the key priorities of his tenure and stressed that prevention also included investment in mediation, peacebuilding and sustainable development. He stated

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<sup>241</sup> *Ibid.*, p. 33.

<sup>242</sup> *Ibid.*, p. 55.

<sup>243</sup> *Ibid.*, p. 66.

<sup>244</sup> *Ibid.*, p. 11 (Poland), p. 16 (Kazakhstan), p. 39 (Egypt), p. 66 (Norway), p. 70 (Kenya), and p. 87 (Ghana).

<sup>245</sup> *Ibid.*, p. 24.

<sup>246</sup> A concept note was circulated by a letter dated 3 August 2018 addressed to the Secretary-General ([S/2018/586](#)).

that mediating an end to today's complex conflicts meant that we must bring all available mediation tracks together in a coordinated way, including the work of the Secretary-General's Special Envoys and Representatives, the United Nations Standby Team of Senior Mediation Advisors, the High-level Advisory Board on Mediation, regional and sub-regional organizations, and private mediation actors, including non-governmental organizations. He emphasized the importance of inclusive mediation by investing in women's meaningful participation and leadership in peace processes, paying greater attention to the gender dimensions of conflict, doing more to engage with young people, as well as investing in the mediation and conciliation opportunities offered by information technology. Finally, the Secretary-General underlined that the Council played a central role in conflict resolution, particularly when it signalled to warring parties that they had to settle their disputes peacefully.<sup>247</sup>

In his remarks, the Archbishop of Canterbury, invited under rule 39 of the provisional rules of procedure and speaking as a member of the High-level Advisory Board on Mediation and a religious leader, underscored that mediation could be effective only when it was conducted in the context of structures of reconciliation. In this regard, he urged the Council to commit to the ongoing transformation of violent conflict into non-violent disagreement and eventually into a truly inclusive approach to participation in mediation and reconciliation.<sup>248</sup> The Co-founder of PAIMAN Alumni Trust addressed the role of women in mediation, stating that the Council should acknowledge the complexity of wars as a critical first step which could lead to designing mediation processes that addressed that complexity by drawing on the vast resources of local actors and especially women. She also highlighted that women's mediatory roles at the informal levels have often served as blueprints for negotiations, adding that women should be involved in mediation and peace process because, at a basic level, their participation was a question of equity and equality.<sup>249</sup>

During the deliberations, the representative of the Russian Federation stated that the peaceful resolution of conflict was enshrined in the Charter of the United Nations as both a

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<sup>247</sup> [S/PV.8334](#), pp. 2-4.

<sup>248</sup> *Ibid.*, pp. 4-6.

<sup>249</sup> *Ibid.*, p. 6.

founding purpose and a principle of the Organization's work.<sup>250</sup> The representative of Ukraine recalled that Article 33 of the Charter provided an obligation for the peaceful settlement of disputes and a toolkit for doing so.<sup>251</sup> In that regard, numerous speakers referred to mediation as one of the essential tools for the pacific settlement of disputes and the prevention of conflict.<sup>252</sup>

The representative of Egypt highlighted the responsibility of the Council, in line with the mandate given to it under Chapter VI of the Charter, to make all efforts to use, support and activate such peaceful means as negotiation, investigation, mediation and judicial settlement, or resort to regional bodies, organizations and other peaceful means in order to promote the peaceful settlement of disputes.<sup>253</sup> The representative of the Netherlands encouraged the Council to use tools such as mediation before situations became a threat to international peace and security.<sup>254</sup> Speaking on behalf of the Group of Friends of Mediation, the representative of Turkey highlighted the importance for the Council and the entire United Nations to strengthen their capacity to undertake prevention and recalibrate their approach from responding to conflict towards sustaining peace.<sup>255</sup>

The representative of the United Kingdom stated that the United Nations had made good progress in the past decade to professionalize and strengthen its mediation role with the establishment of the Mediation Support Unit, the Standby Team of Senior Mediation Advisers, and the High-level Advisory Board for Mediation. He also underscored the important mediation work conducted by peacekeeping operations and special political missions.<sup>256</sup> The representative of the Plurinational State of Bolivia expressed appreciation for the efforts of the Secretary-General to prioritize conflict prevention as a guide for the work of the entire United Nations system and to place emphasis on mediation as a key tool for that purpose.<sup>257</sup> Several

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<sup>250</sup> *Ibid.*, p. 22.

<sup>251</sup> *Ibid.*, p. 38.

<sup>252</sup> *Ibid.*, p. 9 (United Kingdom), p. 11 (Bolivia (Plurinational State of)), p. 13 (France), p. 15 (Netherlands), p. 16 (Peru), p. 18 (Kazakhstan), p. 20 (China), p. 24 (Brazil), p. 30 (Lithuania), p. 31 (Iran (Islamic Republic of)), p. 32 (Liechtenstein), p. 34 (Jordan), p. 39 (Mexico), p. 42 (Germany), p. 48 (India), p. 49 (Romania), p. 52 (Sri Lanka), p. 57 (Belgium), p. 60 (Venezuela (Bolivarian Republic of)), p. 63 (Slovenia), p. 65 (Cyprus) and p. 72 (Armenia).

<sup>253</sup> *Ibid.*, p. 27.

<sup>254</sup> *Ibid.*, p. 15.

<sup>255</sup> *Ibid.*, p. 26.

<sup>256</sup> *Ibid.*, p. 9.

<sup>257</sup> *Ibid.*, p. 11.



speakers also highlighted the good offices role of the Secretary-General in this context, including through his Envoys and Representatives.<sup>258</sup> The representative of the United States noted that mediation should not be blind to the realities of what people were doing to each other on the ground and for diplomacy to work, the Council needed to pursue a meaningful response, showing the parties that there would be consequences if they did not commit to talks.<sup>259</sup> In this regards, the representative of Brazil underscored that sanctions regimes should be designed in close coordination with the mediators and others in the field.<sup>260</sup> Similarly, in reference to Article 33 of the Charter, the representative of Djibouti expressed the view that mediation would have a better chance of success if the parties understood that one of the consequences of failure would be arbitration or litigation, not a continued stalemate.<sup>261</sup>

Several speakers stated that mediation should be undertaken in accordance with the provisions of the Charter and take into account the fundamental principles of national responsibility and respect for State independence, sovereignty and equality in international relations.<sup>262</sup> The representative of the Russian Federation added that the most effective way of resolving conflicts was through direct dialogue between conflicting parties and the political will of the parties to find a mutually acceptable solution.<sup>263</sup> The representative of Sri Lanka opined that the pacific settlement of disputes could not be forced and that the parties to a conflict had to be persuaded by the merits of mediation.<sup>264</sup> The representative of Argentina stated that the higher obligation of Member States to settle their disputes by peaceful means could never be subject only to the consent of the parties.<sup>265</sup>

The representative of Peru underlined that mediation must be conducted in accordance with international law, including international humanitarian law and international human rights law.<sup>266</sup> The representative of Liechtenstein stated that mediation processes had to address

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<sup>258</sup> Ibid., p. 10 (Equatorial Guinea), p. 12 (Bolivia (Plurinational State of)), p. 18 (Kazakhstan), p. 19 (Kuwait), p. 19 (Sweden), p. 22 (Russian Federation), p. 38 (Argentina), p. 40 (Mexico), p. 54 (Cuba) and p. 69 (Viet Nam).

<sup>259</sup> Ibid., pp. 23-24.

<sup>260</sup> Ibid., p. 25.

<sup>261</sup> Ibid., p. 55.

<sup>262</sup> Ibid., p. 22 (Russian Federation), p. 48 (India), pp. 52-53 (Sri Lanka), p. 53 (Cuba), p. 56 (Morocco), p. 69 (Viet Nam) and p. 75 (Bahrain).

<sup>263</sup> Ibid., p. 22.

<sup>264</sup> Ibid., p. 52.

<sup>265</sup> Ibid., p. 39.

<sup>266</sup> Ibid., p. 16.



serious crimes and victims' calls for justice.<sup>267</sup> The representative of the Maldives asserted, in turn, that mediation would be effective only if mediators and the mediation process was objective, inclusive, and most importantly, impartial.<sup>268</sup>

Council members and other speakers widely concurred on the need for the United Nations to coordinate its mediation work with and support the mediation capacity-building of regional and sub-regional organizations. The representative of Equatorial Guinea stated that the United Nations needed to continue its multifaceted support to strengthen the mediation role of the African Union.<sup>269</sup> The representative of the Sudan added that regional and sub-regional organizations, as well as neighbouring countries, were always best placed and the most capable of acting as mediators.<sup>270</sup>

A significant aspect of the discussion focused on the importance of inclusivity in mediation. Many speakers referred to the importance of the inclusion of women and youth in mediation processes. For example, the representative of Sweden opined that mediation support teams needed to also have gender expertise to understand how women's rights were part of the issues under discussion.<sup>271</sup> The representative of the United Kingdom noted that where women were involved in peacekeeping, it increased the probability of peace much longer. He added that the United Nations system, Member States, civil society and religious leaders had to do more to promote women's participation in conflict prevention and resolution at all levels, including the appointment of women mediators.<sup>272</sup> The representative of Spain called for the training of and the incorporation of youth in mediation thereby empowering them as agents to resolve disputes peacefully and preventing the spread of radicalism.<sup>273</sup>

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<sup>267</sup> *Ibid.*, p. 32.

<sup>268</sup> *Ibid.*, p. 63.

<sup>269</sup> *Ibid.*, p. 10.

<sup>270</sup> *Ibid.*, p. 47.

<sup>271</sup> *Ibid.*, p. 20.

<sup>272</sup> *Ibid.*, p. 9.

<sup>273</sup> *Ibid.*, p. 43.

## Case 7

### Women and peace and security

On 25 October 2018, at the initiative of Plurinational State of Bolivia which held the Presidency during that month,<sup>274</sup> the Council held a high-level open debate during its 8382<sup>nd</sup> meeting under the item entitled “Women and peace and security”. The focus of the discussion was the sub-item entitled “Promoting the implementation of the women and peace and security agenda and sustaining peace through women’s political and economic empowerment”. Opening the debate, the Secretary-General noted that, despite progress in some areas, the participation of women in formal peace processes remained extremely limited. He urged the Council to invest in gender equality and women’s empowerment as a critical means of preventing and ending conflict.<sup>275</sup>

The Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) highlighted how women in the front lines were negotiating ceasefires, civilian safe zones, the demobilization of fighters and humanitarian access at the local level and drawing up protection plans at the community level in the Syrian Arab Republic, Yemen, Afghanistan and the Central African Republic. She called on the Council to stop supporting peace agreements that excluded women.<sup>276</sup> Briefing the Council on the status of Palestinian women, the General Director of the Women’s Centre for Legal Aid and Counselling called on the Council to ensure women’s meaningful participation in conflict prevention, democratic transition, reconciliation efforts, and any humanitarian work and to use all tools at its disposal to ensure women’s meaningful participation and that gender analysis was integrated into any discussions of the situation in the occupied Palestinian territories.<sup>277</sup>

During the deliberations, Council members and speakers invited under rule 37 of the provisional rules of procedure highlighted the importance of the inclusion of women in political processes across the conflict spectrum. The representative of Sweden opined that empowering women and increasing their political participation was one of the most effective tools for

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<sup>274</sup> A concept note was circulated by a letter dated 9 October 2018 addressed to the Secretary-General ([S/2018/904](#)).

<sup>275</sup> [S/PV.8382](#), p. 4.

<sup>276</sup> *Ibid.*, pp. 5-7.

<sup>277</sup> *Ibid.*, p. 10.

advancing global peace and security.<sup>278</sup> Similarly, the representative of Côte d'Ivoire, speaking on behalf of Equatorial Guinea and Ethiopia, noted the general consensus that restoring sustainable peace and stability in a post-crisis context required the active participation of women.<sup>279</sup> The representative of Peru stated that when women participated more at every level of political life, societies were less inclined to conflict and more inclined to maintain and consolidate peace.<sup>280</sup> The representative of the United Kingdom maintained that when women meaningfully participated in peace processes, the resulting agreement was 35 per cent more likely to last at least 15 years.<sup>281</sup> The representative of the United States expressed the view that countries with high rates of gender inequality were more likely to experience instability and deadly conflict.<sup>282</sup>

The representative of Kuwait stated that intensifying efforts aimed at the useful political participation of women began with ensuring the political, social and economic rights of women, empowering them to secure an education and basic services.<sup>283</sup> The representative of Slovenia stated that obstacles to women's political and economic participation such as sexual and gender-based violence contributed to prolonged insecurity and threatened solutions for sustainable peace.<sup>284</sup> The representative of the Republic of Korea called for the empowerment of local communities as a sustainable and long-term solution to sexual violence.<sup>285</sup> The representative of Hungary maintained that the protection of the rights of women and girls and their economic empowerment were powerful means for the prevention of, and their protection in, conflict and a prerequisite for their participation in all aspects of life.<sup>286</sup>

Despite the progress achieved, most speakers during the meeting also concurred on the need for further improvement in the participation of women in political processes. The representative of Sweden stated that participation was about having influence, not counting heads.<sup>287</sup> Echoing Sweden regarding the successful inclusion of women in the Colombian

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<sup>278</sup> Ibid., p. 12.

<sup>279</sup> Ibid., p. 17.

<sup>280</sup> Ibid., p. 20.

<sup>281</sup> Ibid., p. 14.

<sup>282</sup> Ibid., p. 23.

<sup>283</sup> Ibid., p. 19.

<sup>284</sup> Ibid., p. 30.

<sup>285</sup> Ibid., p. 43.

<sup>286</sup> Ibid., p. 44.

<sup>287</sup> Ibid., p. 11.

comprehensive peace agreement of 2016, the representative of the Netherlands underlined the importance of civil society playing a big role in the peace process.<sup>288</sup> The representative of Kuwait stated that women should be empowered to participate in the implementation of peace agreements through specific and tangible procedures and mechanisms.<sup>289</sup> The representative of Slovakia underlined the importance of women's participation and full involvement in all stages of security sector reform.<sup>290</sup>

Regarding the role of the United Nations, the representative of Sweden highlighted a number of improvements including that all political and peacekeeping missions had a women, peace and security mandate, that discussions in the Council were better informed, mandates more precise, decisions more inclusive and the number of civil society briefers increased considerably. In terms of further progress, she emphasized that Special Representatives and Special Envoys of the Secretary-General should be measured on how they implemented and delivered on women and peace and security, the need to strategically position gender expertise in political and peacekeeping missions and for better conflict analysis which included gender equality to be reported to the Council.<sup>291</sup> While noting that more than 70 per cent of its resolutions and nearly 90 per cent of its presidential statements included provisions on women's rights and participation, France called on the Council to reach 100 per cent.<sup>292</sup> The representative of China stated that women were increasingly becoming important participants, builders and contributors to peace processes and played an indispensable role in preventing conflict, maintaining peace, reconciling differences and integrating social groups. In this regard, he added that the international community needed to strengthen coordination and cooperation so that women could fully play their role in maintaining international peace and security.<sup>293</sup> The representative of Slovakia emphasized that women's political and economic empowerment needed to be at the centre of women and peace and security efforts to ensure women's political empowerment and equal participation in all spheres of life.<sup>294</sup> The representative of Italy stated that women peacekeepers improved dispute resolution, built trust with communities and were more likely to

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<sup>288</sup> *Ibid.*, p. 13.

<sup>289</sup> *Ibid.*, p. 19.

<sup>290</sup> *Ibid.*, p. 36.

<sup>291</sup> *Ibid.*, p. 11.

<sup>292</sup> *Ibid.*, p. 24.

<sup>294</sup> *Ibid.*, p. 36.

be accepted by civilians and thereby advance stability and the rule of law.<sup>295</sup> The representative of the United States encouraged the United Nations leadership and the Special Representatives of the Secretary-General to take the lead in empowering gender advisers and facilitators to support their work.<sup>296</sup> A number of speakers also noted the important efforts of the Secretary-General to achieve gender parity in the United Nations system.<sup>297</sup>

In terms of regional cooperation, the representative of Côte d'Ivoire, speaking on behalf of Equatorial Guinea and Ethiopia, affirmed the commitment of the African Union to working to strengthen the role of women in peace and security processes, including promoting gender equality in the executive and legislative systems and strengthening the role of women in mediation and prevention strategies.<sup>298</sup> Similarly, the representative of the European Union affirmed the commitment of this organization, together with other regional organizations such as the Organization for Security and Co-operation in Europe, North Atlantic Treaty Organization and the African Union, to continue integrating a stronger gender dimension in all peace and security efforts.<sup>299</sup>

## **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. During the 8334<sup>th</sup> meeting under the item entitled “Maintenance of international peace and security” (see case 7), various references were made to the interaction and distinction between Chapters VI and VII. The representative of Kuwait, echoed by South Africa, opined that logic and the Charter called on the Council to focus on Chapter VI before resorting to Chapter VII.<sup>300</sup> The representative of the Islamic Republic of Iran stated that Chapter VII must be invoked as a measure of last resort.<sup>301</sup>

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<sup>295</sup> Ibid., p. 54.

<sup>296</sup> Ibid., p. 22.

<sup>297</sup> Ibid., p. 15 (Kazakhstan), p. 20 (Kuwait), p. 21 (Russian Federation), p. 33 (India), p. 36 (Slovakia), p. 38 (Norway), p. 40 (Albania), p. 43 (Republic of Korea), p. 44 (Hungary), p. 48 (United Arab Emirates), p. 49 (Dominican Republic), p. 51 (Mexico), p. 63 (Canada), p. 79 (Egypt), p. 80 (Kenya), p. 83 (Georgia) and p. 97 (Trinidad and Tobago).

<sup>298</sup> Ibid., p. 17.

<sup>299</sup> Ibid., p. 58.

<sup>300</sup> Ibid., p. 19 (Kuwait) and p. 64 (South Africa).

<sup>301</sup> Ibid., p. 31.

The representative of Pakistan maintained that, while Chapter VII was the ultimate instrument for the implementation of Council resolutions, its latent efficacy could be greatly enhanced through a timely and judicious application of Chapter VI.<sup>302</sup> The Council deliberated more extensively about the distinction between Chapter VI and Chapter VII in connection with the question concerning Haiti (see case 8).

## Case 8

### The question concerning Haiti

At its 8226<sup>th</sup> meeting, held on 10 April 2018 the Council renewed the mandate of the United Nations Mission for Justice Support in Haiti (MINUJUSTH), by virtue of resolution [2410 \(2018\)](#), acting under Chapter VII of the Charter, for a period of one year until 15 April 2019. The resolution was adopted with 13 votes in favour and two abstentions.<sup>303</sup> In her statement after the vote, the representative of the United States said that the Council had expressed its support for equipping peacekeeping missions with what was needed to protect civilians and that the case of MINUJUSTH was not different.<sup>304</sup> The representative of the United Kingdom added that MINUJUSTH had to have the tools it needed to make the transition in Haiti a success and that included continued authorization under Chapter VII to use all necessary means to carry out its mandate.<sup>305</sup>

In contrast, in explaining the decision of his delegation to abstain in the vote, the representative of the Russian Federation questioned the use of Chapter VII in the case of MINUJUSTH, the mandate of which was focused on helping the Government of Haiti to strengthen its own capacity and to monitor human rights. In this regard, he insisted that invoking Chapter VII, if it was even applicable to the situation in Haiti, should be contemplated only as a last resort for issues of physical safety.<sup>306</sup> The representative of the Plurinational State of Bolivia expressed concern that the penholder States “overstepped their boundaries” without considering

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<sup>302</sup> *Ibid.*, p. 28.

<sup>303</sup> China and the Russian Federation abstained in the vote on the draft resolution. For more information on the mandate of the United Nations Mission for Justice Support in Haiti, see part X, sect. I, “Peacekeeping operations”.

<sup>304</sup> [S/PV.8226](#), p. 2.

<sup>305</sup> *Ibid.*, p. 5.

<sup>306</sup> *Ibid.*, pp. 2-3.

the positions and opinions of other Council members, not to mention those of the host country, which had requested that the mandate of the Mission be governed by Chapter VI of the Charter, as Haiti was certainly not a threat to regional or international peace and security.<sup>307</sup> Similarly, the representative of Equatorial Guinea, despite voting in favour, expressed his country's preference that priority would have been given to the spirit of trust between the Mission and the Government and that those provisions would have been included under Chapter VI.<sup>308</sup> Finally, in his remarks to the Council, the representative of Haiti deplored the fact that the recommendations delivered through Council members were not taken into account despite the unanimous view that MINUJUSTH was a mission of support and technical assistance for the national institutions responsible for upholding the rule of law in Haiti.<sup>309</sup>

### **C. Referral of legal disputes to the International Court of Justice in the light of Article 36 (3) of the Charter**

Article 36 (3) of the Charter provides that in making recommendations under Article 36 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. During the period under review, a discussion with respect to Article 36 (3) was held in connection with the item entitled "Maintenance of international peace and security" (see case 9).

#### **Case 9**

#### **Maintenance of international peace and security**

On 17 May 2018, the Council held a high-level open debate at its 8262<sup>nd</sup> meeting under the item entitled "Maintenance of international peace and security" and the sub-item entitled "Upholding international law within the context of the maintenance of international peace and security". The meeting was held further to a concept note circulated by Poland, which held the

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<sup>307</sup> Ibid., p. 4.

<sup>308</sup> Ibid., p. 6.

<sup>309</sup> Ibid., p. 7.

Presidency for that month.<sup>310</sup> Reading a statement on behalf of the Secretary-General, the Chef de Cabinet stated that where States had agreed to use the International Court of Justice as a means for settling their dispute, the Council had a role in ensuring that the Court's judgement was properly observed. She also called on Member States to consider accepting the Court's compulsory jurisdiction.<sup>311</sup>

The Senior Judge on, and President Emeritus of, the International Court of Justice referred to Article 2 (3) of the Charter which specifically provided that all Member States of the United Nations shall settle their disputes "by peaceful means in such a manner that international peace and security, and justice, are not endangered". In this context, he highlighted the inclusion of the words "and justice" clearly signifying that international peace and security were to be maintained in parallel with the realization of justice. For that reason, the International Court of Justice could play a role in actively contributing to the maintenance of peace and security in parallel with the Security Council. The President Emeritus of the Court further recalled that the Council was empowered, at any stage of a dispute, to make recommendations as part of its duty and that, as provided in Article 36 of the Charter, the Council should take into consideration the fact that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. Referring to the significance of the Corfu Channel case, whereby the Security Council recommended that the United Kingdom and Albania defer their dispute to the newly established Court, he opined that the Council could pay more attention to its discretionary power under Article 36 (3) and invited it to take inspiration from that early instance of constructive cooperation between the two institutions and consider additional possibilities.<sup>312</sup>

In the subsequent discussion, the representative of Peru expressed support for Article 36 of the Charter for the Council to recommend that parties to a legal dispute should, as a general rule, resort to the Court.<sup>313</sup> The representative of Uruguay echoed this view and underscored that the Council should promote the settlement of disputes through the Court, especially legal ones, where other means had proved ineffective.<sup>314</sup> Noting that parties had been referred to the Court

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<sup>310</sup> A concept note was circulated by a letter dated 3 May 2018 addressed to the Secretary-General ([S/2018/417/Rev.1](#)).

<sup>311</sup> [S/PV.8262](#), p. 3.

<sup>312</sup> *Ibid.*, pp. 4-7.

<sup>313</sup> *Ibid.*, p. 19.

<sup>314</sup> *Ibid.*, p. 68.



only once in 1947, the representative of Kenya stated that the Council should look into ways on how to objectively use that platform, given the increasing inter-State tensions with tragic implications for regional and international peace and security.<sup>315</sup>

In reference to Article 36, speakers highlighted that it was important that the Council made use of all tools and mechanisms provided by the Court, including the delivery of advisory opinions, which represented a preventive way to settle disputes and contributed significantly to the fulfilment of the obligation of States to settle their international disputes through peaceful means.<sup>316</sup> The representative of Equatorial Guinea referred to its border dispute with Gabon as an example of a legal dispute being settled before the International Court of Justice.<sup>317</sup> Highlighting the importance of judicial settlement as a means of prevention and the role of the International Court of Justice, the International Tribunal for the Law of the Sea and other tribunals and arbitration mechanisms, the representative of Germany called for Member States to respect and implement their decisions.<sup>318</sup> In this regard, a number of speakers called upon Member States that had not done so yet, to recognize the compulsory jurisdiction of the International Court of Justice.<sup>319</sup> Expanding on the principle of consent, the representative of Djibouti maintained that the Council would not be compelling any State to go to court or arbitration but would rather use its influence to have disputing States consent to the jurisdiction of a court or arbitral tribunal as an effective means of resolving disputes that, if left unresolved, could constitute threats to international peace and security. As an alternative to working directly with the disputing parties, he added that the Council could request the intervention of the Secretary-General and use his good offices to help the parties agree on the settlement of their dispute by one of the means listed in Article 33 of the Charter, including judicial settlement or arbitration.<sup>320</sup>

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<sup>315</sup> *Ibid.*, p. 70.

<sup>316</sup> *Ibid.*, p. 24 (Bolivia (Plurinational State of)), p. 47 (Mexico), p. 73 (Djibouti) and p. 82 (Venezuela (Bolivarian Republic of)).

<sup>317</sup> *Ibid.*, p. 14.

<sup>318</sup> *Ibid.*, p. 63.

<sup>319</sup> *Ibid.*, p. 25 (Cote d'Ivoire), p. 40 (Slovakia), p. 43 (Japan), p. 52 (Italy), p. 71 (Austria) and p. 74 (Djibouti).

<sup>320</sup> *Ibid.*, p. 73.

#### **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 following items, “Implementation of the note by the President of the Security Council ([S/2017/507](#))” (see case 10), “Maintenance of international peace and security” (see case 11) and “Threats to international peace and security” (see case 12).

#### **Case 10**

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

On 6 February 2018, at the initiative of Kuwait which held the Presidency for that month,<sup>321</sup> the Council held its 8175<sup>th</sup> meeting, an open debate under the item entitled “Implementation of the note by the President of the Security Council [S/2017/507](#)”. In his remarks to the Council, the Executive Director of Security Council Report, a non-governmental organization, opined that, at a time when the Council and the Secretary-General were focused on the prevention of conflict, it was important for Council members to reach an agreement among themselves and with the Secretariat on how the Council wished to be kept well informed and therefore to be ready to engage promptly on emerging threats to peace and security.<sup>322</sup>

During the discussion, several Council members and other speakers referred to the good offices’ role of the Secretary-General. The representative of Sweden stated that the Council’s preventive role had to be operationalized as foreseen in its sustaining peace resolutions and the Charter of the United Nations, which included the Secretary-General’s utilization of mediation, good offices and his full powers under Article 99. While calling for better and more frequent use of situational awareness briefings, he also expressed the hope that, with the reformed Secretariat,

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<sup>321</sup> A concept note was circulated by a letter dated 24 January 2018 addressed to the Secretary-General ([S/2018/66](#)).

<sup>322</sup> [S/PV.8175](#), p. 4.

the input of the Secretary-General would be more holistic as regards peace and security.<sup>323</sup> The representative of Bangladesh observed that, in the context of the situation in Myanmar, the Secretary-General rose to the occasion by exercising his authority, under Article 99 of the Charter, to sensitize the Council about the potential threats posed by the crisis to international peace and security. He further urged that this practice be encouraged on a more regular basis, as warranted by any humanitarian exigency likely to be compromised by otherwise political considerations.<sup>324</sup> The representative Australia encouraged the Secretary-General to make full use of his prerogative under Article 99 of the Charter to bring to the Council's attention to any matter that may threaten the maintenance of international peace and security.<sup>325</sup>

## Case 11

### Maintenance of international peace and security

On 21 February 2018, Kuwait which held the Presidency for that month at,<sup>326</sup> the Council held its 8185<sup>th</sup> meeting, an open debate under the item entitled "Maintenance of international peace and security" and the sub-item entitled "Purposes and principles of the Charter of the United Nations in the maintenance of international peace and security". In his remarks, noting that mediation was one of the paths suggested by Chapter VI of the Charter of the United Nations, the Secretary-General recalled that his own good offices were available to the Council at all times to help prevent, manage or resolve conflicts.<sup>327</sup>

In his remarks, the representative of Kuwait stressed the important and key role played by the Secretary-General in bringing any matter to the attention of the Council, pursuant to Article 99 of the Charter.<sup>328</sup> In his statement, the representative of Peru cited the remarks made by Secretary-General Javier Perez de Cuellar in connection with the situation in the Persian Gulf in 1991 including that there was a complementarity "between the Secretary-General being fully equipped in Article 99 of the Charter and the Security Council (in conformity with the spirit of

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<sup>323</sup> Ibid., p. 19.

<sup>324</sup> Ibid., p. 48.

<sup>325</sup> Ibid., p. 53.

<sup>326</sup> A concept note was circulated by a letter dated 1 February 2018 addressed to the Secretary-General ([S/2018/85](#)).

<sup>327</sup> [S/PV.8185](#), p. 3.

<sup>328</sup> Ibid., 8.

Article 34) maintaining a peace agenda not confined to items formally inserted”.<sup>329</sup> The representative of Sweden called upon the Secretary-General to make even greater use of his prerogatives, including under Article 99, to bring to the attention of the Council any matter that, in his opinion, may threaten the maintenance of international peace and security and encouraged Council members to be responsive to such petitions.<sup>330</sup> He also noted that the Secretary-General took this step in relation to Myanmar in late 2017, bringing the Council’s attention to the situation there and its potential implications beyond the borders of that country.<sup>331</sup>

On the broader role of the Secretary-General, the representative of Côte d’Ivoire highlighted his good offices which he described as a fundamental element in conflict prevention and resolution through preventive diplomacy. He added that the effectiveness of that instrument, however, lied in the ability of the Secretary-General to embody the moral authority of the United Nations and his persuasive force, particularly in regard to the Security Council and the General Assembly.<sup>332</sup> Similarly, the representative of France welcomed the efforts of the Secretary-General to strengthen the mediation component of his work by making full use of his good offices, as well as the mediation mechanisms and expertise in the Secretariat which depended on the ability to anticipate and act prior to crises, through early warning and action.<sup>333</sup>

## Case 12

### Threats to international peace and security

On 13 April 2018, the Council held its 8231<sup>st</sup> meeting under the item entitled “Threats to international peace and security and the sub-item entitled “The situation in the Middle East”. In his briefing, the Secretary-General stated that the situation in the Middle East was in chaos to such an extent that it had become a threat to international peace and security.<sup>334</sup> He further stated that existing divisions in the region were reflected in a multiplicity of conflicts, several of which were clearly linked to the threat of global terrorism, including those between Israel and Palestine,

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<sup>329</sup> Ibid., p. 20. See also [A/46/1](#), p. 3.

<sup>330</sup> [S/PV.8185](#), p. 21.

<sup>331</sup> Ibid.

<sup>332</sup> Ibid., p. 10.

<sup>333</sup> Ibid., p. 24.

<sup>334</sup> [S/PV.8231](#), p. 2.

in Yemen, Libya, Iraq and Lebanon. On the situation in the Syrian Arab Republic, the Secretary-General said that it represented the most serious threat to international peace and security. He recalled his letter to the Council of 11 April 2018 in which he expressed his deep disappointment that the Council was unable to agree upon a dedicated mechanism to attribute responsibility for the use of chemical weapons in the Syrian Arab Republic and reiterated the appeal for the Council to fulfil its duties in this regard.<sup>335</sup>

During the discussion, the representative of Sweden, echoed by the representative of Equatorial Guinea, noted that the Secretary-General had offered to support efforts in the Council to find a way forward on the issue of chemical weapons through his good offices.<sup>336</sup> The representative of Sweden further called on all Council members to muster the political will and respond to the appeal by the Secretary-General.<sup>337</sup> The representative of Kazakhstan, echoed by the representative of Ethiopia, concurred with the views expressed by the Secretary-General about the risks of the current impasse and added that the Council must at all costs avoid the situation spiralling out of control.<sup>338</sup> The representative of Côte d'Ivoire encouraged the Secretary-General to make use of his good offices with stakeholders to restore peace and calm, in order to prevent any further escalation of the situation.<sup>339</sup>

One day later, on 14 April 2018, at the Council's 8233<sup>rd</sup> meeting held under the same item and sub-item, the Secretary-General briefed Council members on reports of air strikes conducted by the United States, France and the United Kingdom in the Syrian Arab Republic on 13 April. He stated that, as the Secretary-General, he had a duty to remind Member States that there was an obligation, particularly when dealing with matters of peace and security, to act consistently with the Charter of the United Nations, and with international law in general. The Secretary-General underscored that there could be no military solution to the crisis, that the solution had to be a political one that was credible and met the aspirations of the Syrian people to dignity and freedom, in accordance with resolution [2254 \(2015\)](#) and the Geneva communiqué.<sup>340</sup>

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<sup>335</sup> [S/PV.8231](#), pp. 2-3. See also [S/2018/333](#).

<sup>336</sup> [S/PV.8231](#), pp. 11 (Sweden) and p. 12 (Equatorial Guinea).

<sup>337</sup> *Ibid.*, p. 12.

<sup>338</sup> *Ibid.*, p. 16 (Kazakhstan) and p. 17 (Ethiopia).

<sup>339</sup> *Ibid.*, p. 19.

<sup>340</sup> [S/PV.8233](#), p. 3.

Concurring with the emphasis of the Secretary-General on the need for a political process, the representative of the United Kingdom proposed for the Council to utilize the upcoming retreat with the Secretary-General hosted by Sweden, to reflect on next steps and the way back to such a process.<sup>341</sup> The representative of Sweden concurred with the statement of the Secretary-General regarding the obligation of Member States to act consistently with the Charter of the United Nations and international law and expressed regret that the Council could not unite behind the call of the Secretary-General for action.<sup>342</sup> The representative of Ethiopia appealed to Council members, especially the permanent members, to help create a situation where diplomacy would have the upper hand and the primacy of politics would be the guide for coming out of a troubled moment in history.<sup>343</sup> The representative of Peru encouraged the Secretary-General to redouble his efforts in accordance with the prerogatives entrusted to him in the Charter of the United Nations with a view to helping resolve the stalemate in the Council and to establish a mechanism for the attribution of responsibility for the use of chemical weapons in Syria.<sup>344</sup>

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<sup>341</sup> *Ibid.*, p. 8.

<sup>342</sup> *Ibid.*, p. 12.

<sup>343</sup> *Ibid.*, pp. 16-17.

<sup>344</sup> *Ibid.*, p. 18.