III. Political and Security Questions

A. PROPOSALS FOR STRENGTHENING WORLD PEACE

1. Uniting for Peace

The item "United Action for Peace" was included in the agenda of the fifth session of the General Assembly on the request of the United States delegation. It was considered by the Assembly's First Committee at its 354th to 371st meetings from 9 to 21 October, and by the Assembly at its 299th to 302nd plenary meetings from 1 to 3 November 1950.[1]

a. CONSIDERATION IN THE FIRST COMMITTEE

The Committee had before it five draft resolutions: one submitted by Chile (A/C.1/575); one submitted jointly by Canada, France, the Philippines, Turkey, the United Kingdom, the United States and Uruguay (A/C.1/576); two submitted by the USSR (A/C.1/579, A/C.1/580) offered principally as a substitute for particular parts of the joint draft resolution; and one submitted jointly by Iraq and Syria (A/C.1/585). The joint seven-Power draft resolution and the USSR draft resolutions formed the basis of the general discussion in the Committee, the Iraqi-Syrian draft resolution being discussed separately.

(1) Joint Seven-Power Draft Resolution

Amendments to the joint seven-Power draft resolution were proposed by Greece (A/C.1/577), Lebanon (A/C.1/578), Egypt (A/C.1/581), Yugoslavia (A/C.1/582), the USSR (A/C.1/583) and Israel (A/C.1/584).

At the Committee's 363rd meeting on 13 October a seven-Power revised draft resolution (A/C.1/576/Rev.1) was submitted, which incorporated certain parts of the amendments proposed by Egypt, Greece, Lebanon and Yugoslavia and contained a new section (E) which embodied the principles set forth in the Chilean draft resolution (A/C.1/575).

The text of the revised seven-Power resolution follows:[2]

The General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the Peace", and

"To develop friendly relations among nations based on respect for the[3] principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace",

Finding that international tension exists on a dangerous scale,

Recalling its Resolution 290(IV) entitled, "Essentials of Peace", which states that disregard of the Principles of the Charter of the[4] United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council and desiring to ensure that, pending the conclusion of such agreements, the United Nations have at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it

[1] At its 371st meeting on 21 Oct., the Committee agreed to the suggestion of the representative of Chile that the agenda item "Strengthening of democratic principles as a means of contributing to the maintenance of universal peace", proposed by his delegation, should be withdrawn as it was covered in a resolution adopted by the Committee. See p. 190.

[2] Phrases have been italicized (other than initial words of paragraphs) and footnotes have been added editorially to indicate changes incorporated from the amendments of various delegations.

[3 4] Incorporating amendment (A/C.1/578, points 1 & 2) by Lebanon.

of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to United Nations Members for collective action which, to be effective, should be prompt,

A

1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.[5] If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

2. Adopts for this purpose the revisions in its rules of procedure set forth in the annex to this resolution;

B

3. Establishes a Peace Observation Commission, which for the calendar years 1951 and 1952 shall be composed of representatives of (9-14 Members), and which could observe and report on the situation in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security. Upon the invitation or with the consent of the state into whose territory the Commission would go, the General Assembly, or the Interim Committee when the Assembly is not in session, may utilize the Commission if the Security Council is not exercising the functions assigned to it by the Charter with respect to the matter in question. Decisions to utilize the Commission shall be made upon the affirmative vote of two-thirds of the members present and voting. The Security Council may also utilize the Commission in accordance with its authority under the Charter;

4. The Commission shall have authority in its discretion to appoint subcommissions and to utilize the services of observers to assist it in the performance of its functions;

5. Recommends to all governments and authorities that they cooperate with the Commission and assist it in the performance of its functions;

6. Requests the Secretary-General to provide the necessary staff and facilities, utilizing where directed by the Commission the United Nations panel of field observers envisaged in resolution 297(IV) B;

C

7. Invites each Member of the United Nations to survey its resources in order to determine the nature and scope of the assistance it may be in a position to render in support of any recommendations of the Security Council or the General Assembly for the restoration of international peace and security;

8. Recommends to the Members of the United Nations that each Member maintain within its national armed forces elements so trained, organized, and equipped[6] that they could promptly be made available, in accordance with their respective constitutional processes, for service as a United Nations unit or units, upon recommendation by the Security Council or General Assembly without prejudice to the use of such elements in exercise of the right of individual or collective self-defense recognized in Article 51 of the Charter;

9. Invites the Members of the United Nations to inform the Collective Measures Committee as soon as possible of the measures taken in implementation of the preceding paragraph;[7]

10. Requests the Secretary-General to appoint, with the approval of the Committee provided for in paragraph 11, a panel of military experts who could be made available upon request of Member States which wish to obtain technical advice regarding the organization, training, and equipment for prompt service as United Nations units of the elements referred to in paragraph 8;

D

11. Establishes a Collective Measures Committee consisting of representatives of (10—14) Members and directs the Committee, in consultation with the Secretary-General and with Member States as the Committee finds appropriate,[8] to study and make a report to the Security Council and the General Assembly, not later than 1 September 1951, on methods, including those of part C of this resolution, which might be used to maintain and strengthen international peace and security[9] in accordance with the Purposes and Principles of the Charter, taking account of collective self-defense and regional arrangements (Articles 51 and 52 of the Charter);

12. Recommends to all Members that they co-operate with the Committee and assist it in the performance of its functions;[10]

13. Requests the Secretary-General to furnish the staff and facilities necessary for the effective accomplishment of the purposes set forth in parts C and D of this resolution;

E[11]

14. The General Assembly, in adopting the proposals set forth above, is fully conscious that enduring peace

[5] Incorporating part of Yugoslav amendment (A/C.1/582).

[6] Incorporating Egyptian amendment (A/C.1/581, point 1).

[7] Incorporating Greek amendment (A/C.1/577).

[8] Incorporating Egyptian amendment (A/C.1/581, point 2).

[9] Incorporating Lebanese amendment (A/C.1/578, point 4).

[10] Incorporating Egyptian amendment (A/C.1/581. point 4).

[11] Incorporating principles of Chilean draft resolution (A/C.1/575).

will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the principles and purposes established in the Charter of the United Nations, and especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries; and accordingly

15. Urges Member States to respect fully, and to intensify Joint action, in cooperation with the United Nations, to develop and stimulate universal respect for and observance of, human rights and fundamental freedoms, and to intensify individual and collective efforts to achieve conditions of economic stability and social progress, particularly through the development of underdeveloped countries and areas.

The following amendments to the revised joint draft resolution were considered by the Committee:

(i) Amendments submitted by the USSR (A/C.1/586/-Rev.1) which took the place of those previously submitted by the USSR delegation (A/C.1/583, A/C.1/-586). The USSR proposed that paragraphs 4, 7, 8 and 9 together with the reference to the "veto" in paragraph 5 of the preamble be deleted; and that Article 106 of the Charter be invoked in place of the second part of paragraph 6 of the preamble. In section A, paragraph 1, the USSR amendments provided that recommendations by the General Assembly to maintain or restore peace should be referred to the Security Council in accordance with Article 11, paragraph 2, of the Charter if they involved action; that emergency sessions should require a notice of ten days instead of twenty-four hours; and that such sessions should be called at the request of the majority of the Members of the United Nations or of the Security Council instead of at the request of any seven members of the Security Council or by vote in the Interim Committee or otherwise.

In section B, paragraph 3, it was proposed (a) that the Peace Observation Commission should be of a representative character and should include the following among fourteen Members of the United Nations: Czechoslovakia, France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom and the United States; and (b) to delete the reference to the Interim Committee. It was also proposed to delete the provision, in paragraph 6, for the utilization by the Commission of the United Nations panel of field observers envisaged in resolution 297 B (IV).

It was proposed to delete sections C and D. Lastly, the USSR amendment proposed consequential amendments to the rules of procedure contained in the Annex to the revised joint draft resolution.

(ii) An amendment by Egypt (A/C.1/587) to add a new paragraph to section D to provide that the Collective Measures Committee should give particular attention to the degree of preparedness of national armed forces. (An earlier amendment by Egypt (A/C.1/581) to section D calling for the equipping of national forces in sensitive areas was withdrawn.)

(iii) An amendment by Lebanon (A/C.1/589) to include among the statement of the conditions of lasting peace in section E, paragraph 14, the implementation of the resolutions of the Security Council and the General Assembly relating to the maintenance of international peace and security.

(iv) An amendment by Yugoslavia (A/C.1/582, point 1) to insert in the preamble a reference to Article 2, paragraph 7, of the Charter and to the principle of equal rights and self-determination of peoples,

(v) An Israeli amendment (A/C.1/584, points 1 & 2) to insert in the preamble, as a second paragraph, a reaffirmation of the primary duty of Members to seek settlement of international disputes by peaceful means through the procedures of Chapter VI of the Charter, and to insert in the fifth paragraph a qualification indicating the primacy of Article 106 of the Charter.[12]

(2) USSR Draft Resolution

The first USSR draft resolution (A/C.1/579) provided that the Assembly should recommend to the Security Council that it should take the necessary steps to ensure that the action provided for under the Charter was taken with respect to threats to the peace or acts of aggression, and for the peaceful settlement of disputes or situations likely to endanger the maintenance of international peace and security. The Assembly would also recommend that the Security Council should devise measures for the earliest application of Articles 43, 45, 46 and 47 of the Charter regarding the placing of armed forces at the disposal of the Council by Members of the United Nations and the effective functioning of the Military Staff Committee.

The second USSR draft resolution (A/C.1/580) would have the Assembly recommend that, before armed forces were placed at the disposal of the Security Council under appropriate agreements concluded in accordance with Article 43 of the Charter, the permanent members of the Security Council should take steps to ensure the necessary implementation of Article 106 of the Charter, which provides that they should "consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security".

(3) General Views Expressed in the Committee

A majority of Committee members, among them the sponsors of the joint draft resolution and the representatives of Australia, Belgium, Bolivia, Brazil, Chile, China, Denmark, Greece, Iraq, Israel, Lebanon, Netherlands, New Zealand, Norway, Pakistan, Sweden, Union of South Africa, Venezuela and Yugoslavia, made statements in support of the resolution. These representatives, broadly

[12] This Article deals with transitional security arrangements.

speaking, took the view that, under the Charter, while primary responsibility for the maintenance of international peace and security rests with the Security Council, that responsibility is not exclusive. Apart from Articles 11 and 14 of the Charter, Article 10 gives the Assembly the right to make recommendations to Members on any matters "within the scope of the present Charter" except in relation to situations in respect of which the Security Council is exercising its functions (Article 12). It was the view of these representatives that the Security Council was not exercising its functions if, by a procedural vote, it decided that it was no longer seized of a question. The way should, then, be open for the Assembly to make recommendations on that question.

The words "primary responsibility" in Article 24, in the opinion of these delegations, implied a secondary responsibility devolving on Member States which had conferred the responsibility primarily on the Security Council. The Member States were thus the mandating authority to which power returned once the Security Council, through the misuse of the rule of unanimity of permanent members, failed in the exercise of that responsibility.

The limitation under Article 12 affected not the competence of the Assembly but the time when that competence would be exercised. The provision was only intended to regulate the work of the Organization in such a way as to avoid the possibility of two of its organs discussing the same question simultaneously. Once, however, the Security Council ceased to consider a question, or was prevented from taking the necessary action, the Assembly was bound to make recommendations on it in order to fulfil the fundamental purpose of the United Nations which was the maintenance of peace.

United Nations action in Korea, it was stated, had only been made possible by accidental circumstances such as the absence of a certain permanent member from the meetings of the Council, the availability of United States troops in Japan and the presence of the Assembly's Commission in Korea. The joint draft resolution was designed to eliminate this element of chance and to remedy certain organizational weaknesses of the United Nations.

The representative of Sweden stated that he was in agreement with the principles in sections A and B of the draft resolution presented by the seven Powers. He noted that during the past few years the General Assembly had tended to extend its competence beyond the limits indicated by the Charter. This was evident from resolution 39(1) of the Assembly concerning Franco Spain and resolution 193 A (III) recommending an embargo on raw materials to States neighbouring Greece. The letter of the Charter had been exceeded in these decisions but this was a happy development; the Charter like all other constitutions must develop so that it would not become a dead letter. He supported the joint draft resolution, with the reservation that Swedish forces were prohibited by law from fighting outside Sweden except in defence of their own country.

The representative of Syria stated that the interpretation put forward by the sponsors of the joint draft resolution regarding the Assembly's power to use armed force had not occurred to any delegation at San Francisco. Expressing his satisfaction with the large measure of support for this interpretation, he wondered why it had not previously occurred to Members when the Security Council had failed to act. He considered, however, that the Assembly could not be convoked without the affirmative votes of seven members of the Security Council, including the permanent members.

The representative of India felt that the wording of paragraph 1 of section A needed clarification. The phrase "because of lack of unanimity of permanent members" was not precise. For example, would it cover a draft resolution which in addition to lacking the unanimity of the permanent members, failed to obtain a majority of seven votes in the Council? Also, was it intended that section A should become operative upon the rejection of a single draft resolution in the Security Council, or could the Council have the necessary time in which to adopt an alternative resolution?

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR held the view that the seven-Power draft resolution, as it stood, was in conflict with several provisions of the Charter. It had been said that it was necessary to remedy the organizational weaknesses of the Organization, but, these representatives contended, there could be no question of strengthening the United Nations by weakening the Security Council, which would be the inevitable result of the adoption of the proposals contained in the joint draft resolution. The reason for the supposed incapacity of the Security Council to fight or forestall aggression had been ascribed by the proponents of this resolution to the principle of unanimity or the veto. If that were so,

steps should be taken under Article 109 of the Charter to abolish that provision.

But, it was argued, the deadlock on various questions affecting the maintenance of international peace and security had remained not because of the veto but because of the position taken in the Security Council by the "Anglo-American bloc", which had consistently tried to foist decisions designed for its own purposes on the Security Council. These decisions concerned such vital questions as the admission of new Members, the organization of armed forces of the United Nations under Article 43 of the Charter, the prohibition of atomic weapons, the regulation and reduction of armaments and many other questions. Attempts to do away with the "veto" had been made even in 1944, 1945, 1946 and 1947. The events in Korea, to which reference had been made, had not occurred at that time and could not therefore be evoked to justify the campaign against the Security Council. One such attempt was the establishment of the Interim Committee in 1947, when it had been said that the latter would act when the Security Council found itself incapable of taking the appropriate measures.

As regards the legal aspects of the question, these representatives expressed the view that Article 11 of the Charter made it quite clear that if a recommendation were to involve some action, the General Assembly would have no right to take such action and consequently could not recommend what was to be done. To say that the General Assembly could recommend action under the Charter to forestall aggression would be a violation of Article 11, paragraph 2, which clearly vested that prerogative in the Security Council.

Referring to the book The Law of the United Nations, by Professor Kelsen,[13] the USSR representative stated that Professor Kelsen observed that Article 11, paragraph 2, contained restrictions to the powers of the General Assembly which were not included in Article 10, with the result that the Assembly could discuss such questions but could not make recommendations even if the matter had been brought before the Assembly by the Council itself, not only if it was a question of a dispute or situation within the meaning of Article 12, paragraph 1, but also if the question was of such a nature as to make action necessary. The word "action", the representative of the USSR explained, did not mean the same thing in the case of the General Assembly and of the Council. The concept of "action" within the meaning of Article 11 meant coercive action which was, exclusively, the function of the Security Council. That was the only field in which the Assembly could not make a recommendation but must refer the matter to the Security Council. The question of the necessity of action was, as Professor Kelsen indicated, to be decided by the General Assembly, since it was required to refer the matter to the Security Council only if the Assembly's conclusion was affirmative. The General Assembly could make recommendations on any subject within the framework of the Charter, but those recommendations must not imply coercive action. For example, the Assembly, it was contended, had recognized its lack of competence when by resolution 181(II) it called upon the Security Council to take action on Palestine.

The draft resolution proposed that the General Assembly should immediately consider cases where there appeared to be a threat to the peace, breach of the peace or act of agression and should make the necessary recommendations. But, the USSR representative asked, who would determine the existence of such conditions? This was, he stated, a substantive question which only the Security Council was competent to decide.

The representatives arguing along these lines held that when a case involving action was referred by the Assembly or by any other competent source to the Security Council, the latter retained complete freedom of action and might decide that no action was required. The decisions of the Assembly were not binding upon the Security Council.

It had been further argued by the proponents of the joint draft resolution that the Security Council would not be fulfilling its functions if it failed to act effectively and with dispatch. But what would be the criterion on which it would be decided whether the Council had acted with effectiveness and dispatch and what body could take that decision? If it was the General Assembly, when could it do so?—Before or after being convoked? Moreover, it was argued, the General Assembly was not an appellate body which could pronounce judgment on the decisions of the Security Council. The revised draft resolution provided that a special session of the Assembly could be convoked on the vote of any seven members of the Council. Such a provision was a violation of Article 20 of the Charter and also prejudged the Council's right to decide its procedure under Article 30. It was further objected that 24 hours' notice for the Assembly's meeting was too short and the time limit should be raised to ten days.

[13] Hans Kelsen, The Law of the United Nations (London: Stevens, 1950), pp. 202, 204.

The USSR had proposed amendments to this effect (see above).

As regards section B of the seven-Power joint draft resolution (A/C.1/576/Rev.1), the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR had no objection to the establishment of a Peace Observation Commission provided the Commission was representative and was not a tool in the hands of a group of Powers. It was not enough merely to say that it should have nine to fourteen members. The character of the Commission should be given more exactly and it should include the five permanent members of the Security Council. It was proposed that the Peace Observation Commission should include Czechoslovakia, France, the People's Republic of China, the USSR, the United Kingdom and the United States among its fourteen members. Further, reference to the Interim Committee should be deleted since, in the opinion of these delegations, it was an illegal body; it would show a spirit of co-operation on the part of the sponsors of the joint draft resolution to delete that reference. The same applied to the reference in paragraph 6 of the resolution to Assembly resolution 297 B (IV)[14] which it was contended, had been illegally adopted. Amendments to carry out these changes had accordingly been submitted by the USSR (see above).

As regards section C of the joint draft resolution, which provided for the availability of armed forces for use by the Security Council or by the General Assembly and for appointment by the Secretary-General of a panel of military experts, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR expressed the view that this section violated Articles 24, 25, 26, 43, 44, 45, 46, 47, 48, 49, 106 and 108 of the Charter. Section C, it was argued, would abolish the exclusive competence in these matters vested by the Charter in the Security Council as well as the need for special agreements which, under Article 43, were to be initiated by the Council. Yet the importance of Article 43 had not been ignored at San Francisco. Thus, it was stated, the rules of procedure of the Military Staff Committee, unanimously adopted by the five permanent members of the Council, said that the Security Council alone could dispose of the armed forces supplied to the United Nations. That principle was an integral element in the system of collective security envisaged in the Charter, a system based on the co-operation of all Members with a central body for action, namely, the Security Council. The powers of the Security Council could not be transferred or shared without violating Article 25 of the Charter. Chapter VII, moreover, while dealing with enforcement action, did not even mention the Assembly. In this connexion the representative of Poland quoted Law 264, adopted by the Seventy-ninth Congress of the United States on 20 December 1945, which, he said, stated that armed forces supplied by virtue of Article 43 of the Charter would be placed at the disposal of the Security Council. The effect of paragraph 10 of the joint draft resolution, which provided for the setting up of a panel of experts within the Secretariat, would be to turn the United Nations into a military organization and also to duplicate the functions of the Military Staff Committee.

These representatives also opposed section D of the joint draft resolution, which provided for the establishment of a Collective Measures Committee to study and report to the Security Council and the General Assembly on the placing of armed forces at the disposal of the United Nations. They stated that such a Committee would duplicate the functions of the Security Council and the Military Staff Committee, the only bodies, in their view, authorized to discuss the availability of armed forces for the United Nations.

In place of sections C and D, the USSR proposed the adoption of its two draft resolutions (A/C.1/579, A/C.1/580) recommending the taking of the necessary action by the Security Council under the Charter with respect to threats to the peace or acts of aggression and for the peaceful settlement of disputes; the devising by the Council of measures for application of the Charter provisions concerning armed forces and for the effective functioning of the Military Staff Committee; and implementation by the permanent members of Article 106 of the Charter (see above).

Replying to the arguments advanced against the draft resolution (A/C.1/576/Rev.1), the representative of the United Kingdom maintained that not only the intention and aim of the Charter but also its wording provided the General Assembly with the necessary power to act on the basis of the joint seven-Power draft resolution. Under Article 10, the Assembly was entitled to discuss any question or matter within the scope of the Charter with a view to making recommendations, subject only to the restriction that no provision in another Article was applicable and precluded the General Assembly from considering that given matter. Specifically, situations which might lead or

[14] Referring to the creation of a United Nations Panel of Field Observers; for text, see Y.U.N., 1948-49, p. 425.

had led to an international dispute or a breach of the peace fell within the scope of the Charter and prima facie, therefore, Article 10 authorized the General Assembly to make recommendations on such situations.

With regard to the exceptions to this general principle, only Article 11, paragraph 2, and Article 12, paragraph 1, could be regarded as implying certain restrictions. It should therefore be considered whether either of those Articles was drafted in such a way as to bar the General Assembly from studying questions which it had, a priori, authority to discuss.

If the principle was accepted that Article 10 gave the Assembly general authority to make recommendations in the sphere concerned, then it was necessary to consider in what circumstances the restrictions placed on its authority by Articles 11 or 12 would make any eventual action taken by the Assembly illegal and contrary to the Charter.

The last sentence of paragraph 2 of Article 11 set forth a restriction which should be clarified. The word "action" was not defined and it was natural to think that it meant coercive action, which only the Security Council was authorized to take. According to that restrictive interpretation, the last sentence of paragraph 2 of Article 11 would be applicable only in critical situations. However, even if the word were given a wider meaning, the United Kingdom delegation felt that no real difficulty would arise.

If it were assumed that there existed an international dispute or breach of the peace, what then was the requirement contained in the last sentence of paragraph 2 of Article 11? It stipulated that such a question should be submitted, through the appropriate procedural machinery, before or after discussion by the General Assembly, to the Security Council in order that it might, if necessary, exercise the powers conferred upon it by Chapters V, VI and VII of the Charter. If it was felt that, under Article 24 of the Charter, the Security Council was primarily but not exclusively responsible for the maintenance of peace, it was only natural that Article 11 should provide that a question of that nature should be submitted to the Security Council. The authors of the seven-Power draft resolution were all agreed that if a question necessitating action were raised, it should undoubtedly be referred to the Council through the appropriate procedure. The United Kingdom delegation considered, however, that if that procedure were adopted and if the Security Council did not make use of its powers, Article 11 would not in any way preclude the General Assembly from exercising, in respect of such a situation, the powers conferred upon it by Article 10. That was obvious from the way in which the text was drafted, and even if the wording of the text did not make it clear, there was no doubt that such was the intention of the Charter. The present draft resolution merely clarified and defined the powers which the letter of the law conferred upon the Assembly.

As far as Article 12 was concerned, it could not be considered an obstacle to a recommendation on the part of the Assembly, since the Security Council no longer fulfilled any function in connexion with that question.

The representative of the United Kingdom recognized that the Charter did not give the General Assembly the power to take coercive action. The Assembly could only make recommendations, but experience had shown that the recommendations of the General Assembly carried great force, in the same way that the Security Council recommendations had done on the Korean question in virtue of Article 39.

If, therefore, a General Assembly recommendation implied positive action by a Member State, it was perfectly lawful for the Member State to exercise the powers which it already possessed under international law, including the right to defend itself and to assist friendly powers in the face of unjustified aggression.

Speaking on the same point, the representative of Canada expressed surprise that the representative of the USSR should have claimed, on the basis of Article 11, paragraph 2, that the Assembly should automatically refer any question requiring action to the Security Council without using even its right of discussion under Article 10. Was it not the representative of the USSR who had proposed on numerous occasions that the Assembly should adopt important measures on questions which were or might be on the agenda of the Security Council? A week earlier (352nd meeting), it was stated, the representative of the USSR had asked that the Assembly should recommend the withdrawal of United Nations troops from Korea. That was, however, a question requiring very serious action. In fact, the action referred to in Article 11, paragraph 2, was that which the Security Council could take under the Chapter of the Charter which defined its functions, i.e. Chapter V. That action was not, therefore, to be confused with recommendations which the General Assembly was em-

powered to make to Member States under the provisions of that same Article.

Referring to paragraph C of the draft resolution, the representative of Canada stated that it did not recommend establishment of an international armed force as implied by the critics of the resolution. It only provided for the formation of national contingents which might be used by the United Nations while being at the same time available for the national defence of each State.

Section D of the draft resolution was complementary to section C. It was quite reasonable to suggest that a temporary ad hoc committee should report to the Security Council and the General Assembly, before its next session, on the methods by which the principles set forth for the formation of national contingents might be worked out. That Committee might, for example, consider the arguments for and against an international force composed, not of national contingents, but of United Nations volunteers. No question arose, in that section, of the United Nations making strategical plans, of placing armed forces at the disposal of the Secretary-General, or of conducting an inquisitorial investigation into the resources of Member States.

It was surprising, the representative of Canada stated, that the USSR should have made an alternative suggestion to the effect that the Military Staff Committee should be asked to resume its work and that the Security Council should be asked to work out military agreements under Article 43 of the Charter. Actually, he said, it was the USSR which had hitherto prevented the Military Staff Committee from functioning and military agreements from being concluded.

(4) Voting on the Seven-Power and USSR Draft Resolutions

At the 368th meeting, the Committee began to vote paragraph by paragraph on the revised joint draft resolution (A/C.1/576/Rev.1) and the outstanding amendments[15] with the following results:

USSR amendments (A/C.1/586/Rev.1); Egyptian amendment (A/C.1/587) to section D, paragraph 11; Yugoslav amendment (A/C.1/582, point 1); Israeli amendment (A/C.1/584, point 2): rejected

Lebanese amendment (A/C.1/589) to paragraph 14 of section E, which sought to include among the statement of the conditions of lasting peace the implementation of the resolutions of the Security Council and the General Assembly: adopted (after a verbal amendment by the representative of Chile) by 26 votes to 1, with 32 abstentions

Israeli amendment (A/C.1/584, point 1), to insert in the preamble as a second paragraph a reaffirmation that international disputes should be settled by peaceful means: adopted by 12 votes to 11, with 37 abstentions

At the 369th meeting on 19 October, the representative of the United Kingdom, on behalf of the sponsors of the seven-Power draft resolution, proposed that the Peace Observation Commission should be composed of representatives of China, Colombia, Czechoslovakia, France, India, Iraq, Israel, New Zealand, Pakistan, Sweden, USSR, the United Kingdom, the United States and Uruguay, and that the Collective Measures Committee should be composed of the representatives of Australia, Belgium, Brazil, Burma, Canada, Egypt, France, Mexico, the Philippines, Turkey, the United Kingdom, the United States, Venezuela and Yugoslavia. This proposal was adopted by 50 votes in favour to none against, with 8 abstentions, after an amendment submitted by the USSR representative to substitute the "Chinese People's Republic" for "China" in the list of members of the Commission had been declared inadmissible by 40 votes to 7, with 10 abstentions. The composition of the Collective Measures Committee as proposed by the sponsors of the draft resolution (A/C.1/576/Rev.1) was approved by 50 votes to none, with 5 abstentions. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR had not taken part in the vote. They objected in principle to the Collective Measures Committee.

The seven-Power draft resolution (A./C.1/-576/Rev.1) was put to the vote by roll call and was adopted, as a whole, by 50 votes to 5, with 3 abstentions.

The Committee next considered the two USSR draft resolutions (A/C.1/579, A/C.1/580). To the first of these draft resolutions, concerning action to be taken by the Security Council, the application of the Charter provisions concerning armed forces and the effective functioning of the Military Staff Committee,[16] the representative of France submitted an amendment (A/C.1/591) to add a paragraph stating that the terms of this draft resolution should not in any way prevent the General Assembly from fulfilling its functions under the resolution submitted by the seven sponsoring Powers.

The representative of the USSR accepted an oral amendment by Uruguay adding the words "breaches of the peace" after the words "threats to the peace", but stated that he was unable to accept the French amendment, which artificially linked

[15] See p. 183.
[16] See pp. 47, 49.

the USSR text to the draft resolution (A/C.1/-576/Rev.1) adopted by the Committee which some delegations had opposed while certain delegations had abstained from voting on it.

The representatives of China, France, Australia, the United Kingdom and the United States, among others, considered that unless the French amendment was incorporated the USSR draft resolution would contradict the seven-Power draft resolution adopted by the Committee. The procedure provided for in Articles 43, 45, 46 and 47 to which reference was made already existed, and, the representative stated, if the USSR, which was a member of the Military Staff Committee, really wanted progress to be made, it could have taken the necessary steps without resorting to the indirect procedure of proposing a resolution of the General Assembly which, though legal in itself, seemed designed to contradict the seven-Power draft resolution. Acceptance of the French amendment, these representatives thought, seemed the only way to dispel this suspicion. The problem was to prevent the vote already cast by a great majority of the Committee from being disavowed under the pretence of applying the Charter. The French amendment was adopted by 50 votes to 5, with 3 abstentions.

The draft resolution (A/C.1/579) as amended by France and Uruguay was then adopted by 49 votes to none, with 9 abstentions. The representative of the Soviet Union explained that he had abstained from voting on the draft resolution since an amendment to which his delegation was opposed had been incorporated in it.

The Committee voted next on the second USSR draft resolution (A/C.1/580), concerning the implementation by the permanent members of the Council of Article 106 of the Charter.[17]

The draft resolution was rejected by 34 votes to 6, with 18 abstentions.

(5) Iraqi-Syrian Draft Resolution

Finally, the Committee considered a joint Iraqi-Syrian draft resolution (A/C.1/585) which would have the Assembly recommend to the Governments of France, the United Kingdom, the United States and the USSR that they should meet during the fifth session of the General Assembly and discuss afresh the outstanding problems threatening world peace and crippling the United Nations, with a view to resolving fundamental differences and reaching agreements in accordance with the spirit of the Charter, and report the results of their discussions to the General Assembly not later than 15 November 1950.

To this draft resolution, the USSR submitted an amendment (A/C.1/588) which proposed the inclusion among the Governments to which the recommendation was addressed the Government of the People's Republic of China.

After some discussion, the Committee adopted a Bolivian proposal to adjourn discussion on the draft resolution till the next meeting (370th), at which the representative of Iraq introduced a revised Iraqi-Syrian draft resolution (A./C.1/585/-Rev.1), which recommended to the "permanent members of the Security Council that they meet and discuss individually and collectively, and with other nations concerned, the outstanding problems which threaten world peace . . .". It was requested that they should report to the General Assembly during the fifth session on any prospective progress.

During the discussion which followed, one written amendment and various oral amendments were submitted by the representatives of El Salvador (A/C.1/594), Brazil, Netherlands, Israel, Mexico, the United States and Yugoslavia. These amendments were all withdrawn in view of a second revision of the draft resolution (A/C.1/585/-Rev.2) which was submitted at the next meeting (371st), and which incorporated most of the amendments.

After having recognized in the preamble, inter alia, that the Charter charges the Security Council with the primary responsibility for maintaining international peace and security, and having reaffirmed the importance of unanimity among the permanent members of the Security Council, the revised draft resolution provided that the Assembly recommend "to the permanent members of the Security Council that: (a) they meet and discuss, collectively or otherwise, and, if necessary, with other States concerned, all problems which are likely to threaten international peace and hamper the activities of the United Nations, with a view to their resolving fundamental differences and reaching agreement in accordance with the spirit and letter of the Charter; (b) they advise the General Assembly and, when it is not in session, the Members of the United Nations, as soon as appropriate, of the results of their consultations."

A USSR proposal that the phrase "the permanent members of the Security Council" be replaced by "the Governments of France, the United Kingdom, the United States of America, the People's Republic of China and the USSR" was, on the

[17] See p. 183.

proposal of the representative of China, declared inadmissible by 26 votes to 13, with 16 abstentions.

Another USSR proposal that the words "having in view among their number the People's Republic of China" be inserted after the phrase "the permanent members of the Security Council" was, on the proposal of the United States, also declared inadmissible, by 35 votes to 12, with 11 abstentions.

The revised draft resolution of Iraq and Syria (A/C.1/585/Rev.2) was then put to the vote and adopted unanimously by the Committee by 59 votes.

The First Committee recommended to the General Assembly the adoption of three resolutions A, B and C under the general heading "Uniting for Peace".[18]

After the adoption of the Iraqi-Syrian draft resolution, the representative of Chile stated that the question covered by item 66 of the agenda of the General Assembly which had been introduced by his delegation (A/1317) entitled "Strengthening of democratic principles as a means of contributing to the maintenance of universal peace" had been completely incorporated in the joint seven-Power draft resolution which had just been adopted by the Committee under item 68. His delegation therefore suggested that item 66 should be withdrawn from the Committee's agenda. The Committee adopted this suggestion, without objection.

b. CONSIDERATION BY THE GENERAL ASSEMBLY IN THE PLENARY MEETING

The report of the First Committee (A/1465) containing the three resolutions adopted by it was discussed by the General Assembly at its 299th to 302nd meetings from 1 to 4 November 1950. The USSR delegation reintroduced the amendments (A/1465, A/1466) and the draft resolution (A/1467) which the First Committee had rejected (see above).

A number of representatives, among them those of Canada, Chile, Costa Rica, Cuba, Ethiopia, France, Greece, Iceland, Iraq, the Philippines, Sweden, Turkey, the Union of South Africa, the United Kingdom, the United States, Uruguay and Yugoslavia, expressed satisfaction with the three draft resolutions recommended by the First Committee. They held that the joint draft resolution which had been originally presented by the seven Powers not only had an unassailable legal basis in accordance with the Charter, but was also necessary in the present state of world tension in order to avoid a third world war. If adopted by the Assembly, it was stated, this draft resolution would deter future aggressors by enabling quick exposure and suppression of aggression.

Amplifying this thesis, the representative of the United States gave an account of the events which had led to the Second World War. He recalled Japan's attack on Manchuria in 1931 and the failure of the League of Nations in applying restraining measures. Japanese aggression had thereafter spread and the initial breach of peace could not be localized. In 1935, Mussolini attacked and conquered Ethiopia. In 1938, Hitler seized first Austria and then Czechoslovakia. In 1939, Hitlerite Germany and the Soviet Union, the United States representative said, combined to seize and divide Poland. That was the succession of events which touched off the Second World War.

He pointed out that although the taking of "effective collective measures" was included in the first of the stated Purposes of the United Nations, in the last five years the Security Council had been unable to give effect to those words. With the attack on the Republic of Korea, it began to appear that the pattern of 1931 had begun to repeat itself. The seven-Power draft resolution, it was stated, was aimed at arresting that trend. If in response to the resolution Member States actually established a system which would ensure that aggression would be promptly exposed, if they maintained a collective strength and would use it promptly in case of need, then a third world war might be permanently averted.

Turning to the joint Iraqi-Syrian draft resolution, the representative of the United States referred to the statements by Secretary of State Acheson in the general debate (279th meeting) and President Truman in his address to the Assembly (295th meeting) that the United States was always ready to negotiate with a sincere desire to solve problems. The United States, he said, had no territorial dispute and no national ambitions which conflicted with the welfare of the Russian people. In his view the issue dividing the two countries was whether freedom and diversity in the world should be replaced by enforced conformity with the pattern of Soviet totalitarianism. Maintaining that the latter was the aim of Soviet foreign policy, the representative of the United States quoted an editorial from Izvestia of 1 January 1950, which

[18] For the text of the resolution as adopted by the General Assembly, see pp. 193-95.

listed the "camp" growing around the USSR. The editorial said, the U.S. representative continued, that the forces of this "camp" were multiplying every day and listed Poland, Czechoslovakia, Bulgaria, Romania, Hungary, Albania, North Korea, Mongolia, the Chinese People's Republic and the Eastern German Democratic Republic as members of that "camp". But, the representative of the United States said, no people had yet come under the "yoke represented by the USSR brand of imperialist communism except by violent coercion". As long as this remained the programme of the Soviet Union the United States representative considered the possibilities of negotiation between the United States and the USSR were limited though not non-existent.

The representative of France stated that the seven-power draft resolution did not infringe upon the Security Council's competence, responsibilities or powers, as had been suggested by several representatives. The Council should fulfil its role; if it did so, it would be adequate as it had been in the past; if for some reason, however, it failed to fulfil its role, the United Nations could not thereby be paralysed. That was the object of the present draft resolution.

Referring to Professor Kelsen's interpretation of the provisions of the Charter regarding the definition of the powers of the Security Council and the General Assembly which the representative of the USSR had expounded in the First Committee, the representative of Cuba said that the restriction in Article 12 applied only in cases where the Council is genuinely exercising its functions and is not being undermined by absenteeism or being paralysed by the veto, and he quoted from Professor Kelsen's book to prove his point.[19] The representative of Cuba observed that in order to interpret a legal text, particularly when it is a political document, the first thing to take into account is the achievement of the purpose of that document. In this case, those purposes are expressed in the Preamble to the Charter and in Articles 1 and 2, which deal with purposes and principles. In other words, the function of the provision must prevail over its form and even over procedure. This view was expressed also by the Permanent Court of International Justice, the representative of Cuba claimed, in the case concerning the Chorzów factory in 1927. In that case the Court stated that in the interpretation of arbitration treaties account must be taken not only of their historical development, as well as of their terminology and of the grammatical and logical meaning of the words used, "but also and more specially of the function which in the intention of the contracting parties, is to be attributed to this provision".[20] The idea of the Court was, as it was that of the supporters of the seven-Power draft resolution, that the purpose of a legal interpretation is to ensure that the aims of a given text were achieved as effectively as possible.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR characterized the draft resolution as illegal, harmful and full of danger to the peace of nations. The representative of the USSR in his reply to the statements made in support of the resolution said that certain representatives had indulged in slanderous attacks against his country. Referring to the speech of the United States representative, he said that the economic and military foundations for German and Italian aggression had been laid by the United States. American monopolies, he concluded, had helped in rearming Germany, and in this connexion he referred to the Standard Oil Company, which, he stated, had in 1938 concluded an agreement with the German firm of I.G. Farbenindustrie under which the latter was given a share in the profits of aviation fuel produced in the United States and in return refrained from exporting its synthetic petrol from Germany, thus accumulating stocks of that fuel for military purposes.

As regards the statement made by the representative of the United States that in 1939 USSR and Hitler had concluded a pact for the partition of Poland, the USSR representative said that it was a mere slander and was easy to refute. What had happened in 1939 was that the Governments of the United Kingdom and France, under the patronage of the United States Government, were encouraging Hitler's ambitions in the hope that he

[19] The passage quoted by the representative of Cuba was as follows: "The restriction of the competence of the General Assembly is valid only during the time the Security Council is dealing with the dispute or situation; that means that the Assembly has the power to make recommendations with respect to disputes or situations with which the Council has not yet dealt or with which it has ceased to deal. The words 'while the Security Council is exercising. . . the functions. . .' may be interpreted to mean: while a dispute or situation is still on the agenda of the Council. But it may also be interpreted to mean: while the Security Council is actually exercising its functions; so that when the Council because of the exercise of the veto right is reduced to inaction, it should not be considered as 'exercising' its functions." Kelsen, op. cit., pp. 216-17.

[20] Permanent Court of International Justice, Collection of Judgments: Case concerning the Factory at Chorzow (Claim for Indemnity Jurisdiction, Judgment No. 8), Series A, No. 9 (Leyden: Sijthoff, 1927), p. 24.

would attack the Soviet Union. In the spring of 1939, when negotiations were proceeding in Moscow with an Anglo-French Military Mission, these Governments were also carrying out parleys with Hitler. Since Hitler's aggressive intentions had been obvious throughout the years preceding 1939, the USSR Government proposed the conclusion of non-aggression and mutual aid pacts—an effort which was frustrated by the duplicity of these two Governments. On 17 September 1939, when Hitler had invaded and occupied Poland and his forces were advancing towards the Soviet frontier, the USSR forces stopped them at a line coinciding with the Curzon Line, the history of which was well known. This laid the foundations of an eastern defensive front, of which Winston Churchill said on 1 October 1939: "That the Russian armies should stand on this line was clearly necessary for the safety of Russia against the Nazi menace. At any rate, the line is there, and an eastern front has been created which Nazi Germany does not dare assail . . ."

Referring to Korea, the USSR representative argued that the United States and its supporters had exposed the weakness of their case by refusing the "accused", i.e. North Korea, the opportunity of confronting its accusers. This was because they were afraid of the truth coming out.

In 1933, while the USSR delegation to the League of Nations was submitting proposals for the organization of collective security, the United Kingdom and France had signed a pact of co-operation with Hitlerite Germany at Rome. Further, under the Anglo-German Naval Agreement of 1935, signed in London, Hitler had secured the right to build submarines with a total tonnage equal to that of the whole French submarine fleet.

The present draft resolution was not intended to organize collective security but as a screen for military plans. To circumvent the veto, the USSR representative argued, would not guarantee peace, because even without the veto the choice of peace or war lay with the Great Powers. If there was no agreement between them on fundamental matters affecting the organization of international relations, then whether the General Assembly decided these questions without the veto or the Security Council with the veto, there would still be a threat to peace.

The effort to abolish the veto, the USSR representative stated, was due only to the desire of the United States to impose its own will upon nations. To prove this point, he quoted from the book War or Peace by Mr. Dulles: "The veto has prevented the Security Council from doing what we wanted and what the Soviet Union did not want; therefore, the veto should be abolished."[21]

Referring to the arguments of the representative of Cuba regarding the functioning of the Security Council, the representative of the USSR stated that the Security Council is discharging its functions even when, in a case of reported aggression, by reason of the exercise of the veto, it does not determine that there is aggression or a threat to the peace. It had been suggested by the supporters of the draft resolution that the Council is discharging its functions only when it finds that there is aggression. This amounted to saying that the Council discharges its functions only when it acts in accordance with the will of the majority. But it was stated in the Charter itself, in Article 27, paragraph 2, that any permanent member has the right to disagree with the majority and in such a case there is no decision. This was not a non-discharge of functions, as the Council's function was not necessarily to accept the majority decision. In reply to the representative of Cuba, who had quoted from Professor Kelsen's book, the USSR representative also quoted from this book to show that Kelsen did not recognize the power of the Assembly to take action.[22]

The representative of Argentina stated that he shared the belief in the principles underlying the recommendations under sections A, B and E of the draft resolution recommended by the First Committee. But his doubts regarding the legality of sections C and D, which sections in his opinion formed the most dynamic and fundamental parts of the resolution, had not been resolved by the conflicting legal theories propounded. He would, therefore, abstain from voting on the draft resolution as a whole.

The representative of India stated that in the opinion of his Government this was not the time for stressing the military aspect of the United Nations. Therefore his Government was unable to support sections C and also D, which contained a reference to section C. Since these sections have been described as the core of the resolution, he would abstain from voting on the resolution as a whole.

[21] John Foster Dulles, War or Peace (New York: Macmillan, 1950), p. 194.

[22] The passage quoted by the representative of the USSR was as follows: "If the General Assembly acts under Article 11, paragraph 2, also the restrictions apply that the question must have been brought before the Assembly in the way determined in Article 11, paragraph 2, and that the question must be referred to the Security Council before any recommendation has been made, if action is necessary." Kelsen, op. cit., p. 204.

As one of the sponsors of the joint seven-Power draft resolution, the representative of Canada stated that though he respected honest doubts expressed by certain representatives regarding the constitutionality of that draft resolution, he was convinced, as were the other sponsors of the resolution, that it was within the terms of the Charter. Replying to the representative of the USSR, he stated that the version of history in the years preceding the last war given by that representative would not bear analysis. The Soviet Union could not explain, for instance, its efforts to force the nations of the British Commonwealth and France to stop fighting Hitler even after the destruction of Poland. If the Soviet Union knew that it was going to be attacked by Hitler, why did it denounce all attempts by the United Kingdom to warn it of that danger as efforts to divide it from its friends of that moment, the Nazis? As regards Korea, the Soviet Union did nothing in the initial phase of the fighting to secure a cease-fire because at that time North Korea was winning. It attempted to secure a cease-fire only when it had become clear that North Korea was going to be defeated. The representative of Canada said that individuals and nations both might have made mistakes in the thirties, but were not going to repeat them. Similarly they should not repeat the mistakes of 25 June when they were not organized to carry out the collective security obligations imposed by the Charter.

The representative of Sweden reiterated the reservation of his Government regarding section C of the draft resolution, explained in the First Committee (see above). This, he said, did not mean however that the Swedish delegation was opposed to that section. The question would be examined by his Government in accordance with the usual constitutional procedure.

The representative of Iraq stated his Government's reservation regarding paragraph 3 in section B of the seven-Power draft resolution dealing with the Peace Observation Commission. Since one of the members of that Commission was not recognized by his Government, he would construe the provisions of that section in such a way that invitations to the Commission would not mean invitations to every member of that Commission. In other words the invitation would be limited to certain members of the proposed commission, because certain States could not invite all members of the Commission to their territories.

At the 302nd meeting of the Assembly on 3 November 1950 the USSR amendments (A/1465, A/1466), the resolutions recommended by the First Committee (A/1456) and the USSR draft resolution (A/1467) were put to the vote. None of the USSR amendments were adopted by the Assembly. The draft resolutions recommended by the First Committee were adopted separately and then as a whole, by 52 votes to 5, with 2 abstentions.

The Assembly then voted on the USSR draft resolution (A/1467) which read as follows:

The General Assembly,

Taking into account the particular importance of concerted action by the five permanent members of the Security Council in defending and strengthening peace and security among the nations,

Recommends that before armed forces are placed at the disposal of the Security Council under appropriate agreements concluded in accordance with Article 43 of the Charter, the five permanent members of the Security Council—the Union of Soviet Socialist Republics, the United States of America, the United Kingdom, China and France—should take steps to ensure the necessary implementation of Article 106 of the Charter providing for consultation between them, and that they should consult together in accordance with the said Article 106 of the Charter for the purpose of taking such joint action on behalf of the Organization as may prove to be necessary for the maintenance of international peace and security.

The draft resolution was rejected by 39 votes to 5, with 11 abstentions.

The text of the resolution (377(V)) adopted by the General Assembly at its 302nd plenary meeting on 3 November 1950, was as follows:

UNITING FOR PEACE

The General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace", and

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace",

Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an international dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

binding that international tension exists on a dangerous scale,

Recalling its resolution 290(IV) entitled "Essentials of Peace", which states that disregard of the Principles of the Charter of the United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt,

A

1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

2. Adopts for this purpose the amendments to its rules of procedure set forth in the annex to the present resolution;

B

3. Establishes a Peace Observation Commission which, for the calendar years 1951 and 1952, shall be composed of fourteen Members, namely: China, Colombia, Czechoslovakia, France, India, Iraq, Israel, New Zealand, Pakistan, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay, and which could observe and report on the situation in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security. Upon the invitation or with the consent of the State into whose territory the Commission would go, the General Assembly, or the Interim Committee when the Assembly is not in session, may utilize the Commission if the Security Council is not exercising the functions assigned to it by the Charter with respect to the matter in question. Decisions to utilize the Commission shall be made on the affirmative vote of two-thirds of the members present and voting. The Security Council may also utilize the Commission in accordance with its authority under the Charter;

4. Decides that the Commission shall have authority in its discretion to appoint sub-commissions and to utilize the services of observers to assist it in the performance of its functions;

5. Recommends to all governments and authorities that they co-operate with the Commission and assist it in the performance of its functions;

6. Requests the Secretary-General to provide the necessary staff and facilities, utilizing, where directed by the Commission, the United Nations Panel of Field Observers envisaged in General Assembly resolution 297 B (IV);

C

7. Invites each Member of the United Nations to survey its resources in order to determine the nature and scope of the assistance it may be in a position to render in support of any recommendations of the Security Council or of the General Assembly for the restoration of international peace and security;

8. Recommends to the States Members of the United Nations that each Member maintain within its national armed forces elements so trained, organized and equipped that they could promptly be made available, in accordance with its constitutional processes, for service as a United Nations unit or units, upon recommendation by the Security Council or the General Assembly, without prejudice to the use of such elements in exercise of the right of individual or collective self-defence recognized in Article 51 of the Charter;

9. Invites the Members of the United Nations to inform the Collective Measures Committee provided for in paragraph 11 as soon as possible of the measures taken in implementation of the preceding paragraph;

10. Requests the Secretary-General to appoint, with the approval of the Committee provided for in paragraph 11, a panel of military experts who could be made available, on request, to Member States wishing to obtain technical advice regarding the organization, training, and equipment for prompt service as United Nations units of the elements referred to in paragraph 8;

D

11. Establishes a Collective Measures Committee consisting of fourteen Members, namely: Australia, Belgium, Brazil, Burma, Canada, Egypt, France, Mexico, Philippines, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia, and directs the Committee, in consultation with the Secretary-General and with such Member States as the Committee finds appropriate, to study and make a report to the Security

Council and the General Assembly, not later than 1 September 1951, on methods, including those in section C of the present resolution, which might be used to maintain and strengthen international peace and security in accordance with the Purposes and Principles of the Charter, taking account of collective self-defence and regional arrangements (Articles 51 and 52 of the Charter);

12. Recommends to all Member States that they co-operate with the Committee and assist it in the performance of its functions;

13. Requests the Secretary-General to furnish the staff and facilities necessary for the effective accomplishment of the purposes set forth in sections C and D of the present resolution;

E

14. Is fully conscious that, in adopting the proposals set forth above, enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the Principles and Purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries; and accordingly

15. Urges Member States to respect fully, and to intensify, joint action, in co-operation with the United Nations, to develop and stimulate universal respect for and observance of human rights and fundamental freedoms, and to intensify individual and collective efforts to achieve conditions of economic stability and social progress, particularly through the development of underdeveloped countries and areas.[23]

B

For the purpose of maintaining international peace and security, in accordance with the Charter of the United Nations, and, in particular, with Chapters V, VI and VII of the Charter,

The General Assembly

Recommends to the Security Council:

That it should take the necessary steps to ensure that the action provided for under the Charter is taken with respect to threats to the peace, breaches of the peace or acts of aggression and with respect to the peaceful settlement of disputes or situations likely to endanger the maintenance of international peace and security;

That it should devise measures for the earliest application of Articles 43, 45, 46 and 47 of the Charter of the United Nations regarding the placing of armed forces at the disposal of the Security Council by the States Members of the United Nations and the effective functioning of the Military Staff Committee;

The above dispositions should in no manner prevent the General Assembly from fulfilling its functions under resolution 377 A (V).

The General Assembly

Recognizing that the primary function of the United Nations Organization is to maintain and promote peace, security and justice among all nations,

Recognizing the responsibility of all Member States to promote the cause of international peace in accordance with their obligations as provided in the Charter,

Recognizing that the Charter charges the Security Council with the primary responsibility for maintaining international peace and security,

Reaffirming the importance of unanimity among the permanent members of the Security Council on all problems which are likely to threaten world peace,

Recalling General Assembly resolution 190(III) entitled "Appeal to the Great Powers to renew their efforts to compose their differences and establish a lasting peace",

Recommends to the permanent members of the Security Council that:

(a) They meet and discuss, collectively or otherwise, and, if necessary, with other States concerned, all problems which are likely to threaten international peace and hamper the activities of the United Nations, with a view to their resolving fundamental differences and reaching agreement in accordance with the spirit and letter of the Charter;

(b) They advise the General Assembly and, when it is not in session, the Members of the United Nations, as soon as appropriate, of the results of their consultations.

2. Peace through Deeds and Condemnation of Propaganda against Peace

The item "Declaration on the Removal of the Threat of a New War and the Strengthening of Peace and Security among the Nations" was placed on the agenda of the fifth session of the General Assembly by the USSR. The Assembly, at its 285th meeting on 26 September 1950, on the recommendation of the General Committee, decided to include this question in its agenda and to refer it to the First Committee.

a. CONSIDERATION IN THE FIRST COMMITTEE

The First Committee considered the question at its 372nd to 383rd meetings from 23 October to 3 November.

Originally, six draft resolutions were submitted to the Committee: one (A/C.1/595) by the USSR; one (A/C.1/596) by Bolivia; one (A/C.1/597) jointly by France, Lebanon, Mexico, Netherlands, the United Kingdom and the United States; one (A/C.1/598) by India; one (A/C.1/603) by Chile; and one (A/C.1/602) by Greece.

[23] Annexed to this resolution were the relevant changes in the Assembly's rules of procedure. For these, see pp. 43-44.

During the course of the discussion Bolivia and India joined the sponsors of the joint six-Power draft resolution (A/C.1/597/ and agreed on a new text (A/C.1/597/Rev.2). Greece withdrew its draft resolution (A/C.1/602). The Committee, thus, considered three draft resolutions, the USSR draft resolution, the joint eight-Power draft resolution and the Chilean draft resolution, in the order in which they are dealt with below.

(1) USSR Draft Resolution

The text of the USSR draft resolution (A/C.1/-595) follows:

The General Assembly,

Considering that the most important task of the United Nations is to maintain international peace and security, and to strengthen and develop friendly relations among nations and co-operation between them in solving international problems,

Expressing its firm determination to avert the threat of a new war and sharing the nations' inflexible will to peace as expressed by the hundreds of millions of signatures appended to the Stockholm appeal,

Regarding the use of the atomic weapon and other means of the mass destruction of human beings as a most heinous international crime against humanity and basing this attitude on the unanimously adopted General Assembly resolution of 1946 on the need for prohibiting the use of atomic energy for military purposes,

Noting that the events at present taking place in Korea and other areas of the Pacific Ocean emphasize with added force the extreme importance and urgency, from the point of view of international peace and security, of unifying for this purpose the efforts of the five Powers which are permanent members of the Security Council and bear special responsibility for the maintenance of international peace,

The General Assembly

Decides to adopt the following Declaration:

First. The General Assembly condemns the propaganda in favour of a new war now being conducted in a number of countries and urges all States to prohibit such propaganda in their countries and call those responsible to account.

Second. The General Assembly, recognizing that the use of the atomic weapon as a weapon of aggression and the mass destruction of human beings is contradictory to international conscience and honour and incompatible with membership of the United Nations, declares that the use of the atomic weapon shall be unconditionally prohibited and that a strict system of international control shall be instituted to ensure the exact and unconditional observance of this prohibition.

The General Assembly also declares that the first Government to use the atomic weapon or any other means for the mass destruction of human beings against any country will thereby commit a crime against humanity and be regarded as a war criminal.

Third. The General Assembly, acting in recognition of the need for strengthening peace, and taking into account the special responsibilities of the permanent members of the Security Council for ensuring peace, unanimously expresses the desire:

(a) That the United States of America, the United Kingdom, France, China and the Soviet Union should combine their efforts for peace and conclude among themselves a Pact for the strengthening of peace;

(b) That these great Powers should reduce their present armed forces (land forces, military air forces of all kinds, naval forces) by one third during 1950-1951 and that the question of a further reduction of armed forces should be brought up for consideration at one of the forthcoming sessions of the General Assembly.

Introducing his draft resolution, the representative of the USSR emphasized the vital interest of his country in the continuance of peace. The USSR, he said, depended on peaceful world conditions for the realization of its great reconstruction programme. In support of this view, he quoted the statement made by Marshal Stalin to an American trade union delegation, in 1927, in which he had affirmed the possibility and desirability of peaceful co-existence of opposing economic systems. The same principle had been affirmed by Marshal Stalin in other pronouncements in 1946 and 1948. Finally Marshal Stalin had, more recently, stated to Mr. Kingsbury Smith that the USSR could co-operate with the United States in concluding a peace pact which would lead to gradual disarmament.

On the other hand, he stated, the policies of the "Anglo-American bloc" were characterized by force, diktat and constraint. Thus, on 16 February 1950, Mr. Acheson had advanced the idea of "total diplomacy" and rejected that of goodwill and tolerance towards the leaders of the Soviet Union; in Mr. Acheson's opinion, it was stated, the only method of dealing with the Soviet Union was by creating "situations of strength". Similar statements had been made by the leaders of the United Kingdom, such as Mr. Bevin, who had recently stated that the atmosphere would become more and more favourable to direct negotiation as the armed forces of the West increased. This foreign policy, the representative of the USSR continued, was reflected in the huge and unprecedented military expenditure of the United States, in the conclusion of aggressive pacts like the North Atlantic Treaty and in the creation of a German army of 450,000 men camouflaged as a police force and led by Hitlerite generals like Guderian, Haider and Manteuffel. The "Anglo-American bloc" was using not only Germany but also Japan as an instrument of its aggressive policy. In the United States, appropriations for the armed forces for 1949-50 were three times greater than those of the preceding year. In 1951, the budget for the armed

forces was expected to run to $50,000,000,000, or four times the 1949-50 estimates, and fifty times the 1938-39 budget.

One of the main objects of the USSR draft resolution was, the USSR representative said, the prohibition of the atomic weapon and the control of atomic energy. On 11 June. 1947, the USSR had submitted proposals for the control of atomic energy to the Atomic Energy Commission. Those proposals had stipulated that the international control commission might investigate the activities of enterprises mining atomic raw materials and producing atomic energy. The Commission was to be empowered to control stockpiles of raw materials and semi-finished products and control the utilization of atomic materials and of atomic energy; it was also to ensure the technological control of such undertakings and conduct special investigation in cases where violations of the convention on atomic energy were suspected. The international control commission was to take its decisions by simple majority without the application of the unanimity rule. These proposals had also provided for inspection visits without prior notice. As a counter to the USSR proposals on atomic energy, the Acheson-Baruch-Lilienthal proposals had been introduced which, the USSR representative stated, did not even provide for the prohibition of atomic weapons. That plan would place the ownership of all atomic energy plants under an international supervisory body and would prevent all States from showing initiative in developing the peaceful industrial uses of atomic energy. Further, the plan violated the elementary sovereign rights of States. It had, therefore, not been acceptable to the Soviet Union.

The representative of the USSR stated that his country was ready to renew its efforts to break the present deadlock and to ensure the outlawing of atomic weapons and the establishment of effective international control, once the principle of prohibition had been adopted. A first step in that direction would be the adoption of the USSR declaration (A/C.1/595) which, as far as atomic energy was concerned, expressed the will of the peoples of the world as shown in the Stockholm Appeal. That appeal, it was claimed, had been signed by 500,000,000 persons all over the world.

A majority of the members of the Committee, including the representatives of Australia, Belgium, Bolivia, Canada, China, Chile, Denmark, France, Greece, Netherlands, Sweden, the United Kingdom and the United States maintained that every year the USSR introduced similar proposals which were either accepted by the Assembly only after they had been radically amended or were rejected. In 1946, 1947, 1948 and 1949 the USSR had introduced proposals which were all, apparently, directed towards the condemnation of war propaganda, the reduction of armaments and the prohibition of atomic weapons. Yet evidence was available, these representatives contended, that at the same time that it brought those proposals, the USSR had been acting in a manner diametrically opposed to its professed aims.

In support of this contention these representatives gave the following account. In 1946, they said, its armaments were steadily accumulating and the Soviet Air Force was being built up to be the greatest in the world. In 1947, it was stated, while the USSR was calling for the condemnation of war propaganda, its campaign of hatred against Western Governments had been intensified. In 1947, too, the Cominform had been created and had published, in its declaration, a violent attack on the Western Powers. The same year, the USSR had broken with Yugoslavia and had attempted to intimidate that country as well as Iran and had also frustrated all efforts for the unification of Korea.

In 1948, they continued, another resolution had been presented by the USSR, calling for a one-third reduction of armaments, the prohibition of atomic weapons and the establishment of international control of atomic energy, but the USSR had given no evidence of its readiness to reach agreement on those questions. The same year it had failed to agree on a peace treaty with Austria, in order to keep its troops there, and had resorted to the Berlin blockade.

In 1949, a similar resolution had again been tabled by the USSR but soon afterwards, events in Korea had shown, it was maintained, that it was not the Western democracies which had been preparing for war. The USSR proposals regarding the prohibition of atomic weapons and the reduction of armaments had been voted upon by the Assembly several times after very full discussion in the appropriate organs of the United Nations, the Atomic Energy Commission and the Commission on Conventional Armaments. On the question of the control of atomic energy the USSR had maintained that a system of periodic inspection and special investigation would be adequate, whereas the majority was convinced that the international control agency to be created must itself operate and manage plants which were producing dangerous quantities of atomic raw materials. It was absurd, these representatives held, to suppose that an inspector who visited a plutonium plant from

time to time would be able to satisfy himself effectively that the amount observed in the pile corresponded with the amount declared by the management. Moreover, how would it be possible, by inspection alone, to be certain that there were no atomic factories in existence in remote areas which would never be declared by their governments? The only guarantee against this danger would be to give the international control agency the management and exploitation of atomic raw materials.

The USSR, while seeking to outlaw the atomic weapon said nothing of aggression, direct or indirect, or of the tanks and planes, heavy artillery and fifth columns used to carry out aggressive plans. The latter form of aggression was equally to be abhorred, but the USSR, it was contended, had supported this form of aggression, notably in Korea, The General Assembly, by resolutions 110(II) of 1947 and 290(IV) of 1949, had already called for the elimination of war propaganda, and by resolution 191(III) of 1948 had approved a plan for the prohibition of the atomic weapon. As regards reduction of armed forces it had adopted a resolution (192(III)) providing for a census of existing armed forces with verification by international inspection. The USSR, by its intensive propaganda against the non-Communist world, had, it was argued, violated the first two resolutions and, by its obstructive tactics, had made the implementation of the other two impossible. While the Soviet Union itself maintained 25,000 tanks and 150 active divisions in addition to the Eastern German forces called "Bereitschaften", it could not accuse Western Powers of aggressive aims if they desired to raise 60 divisions for their defence. Moreover, all the aims of the USSR draft resolution (A/C.1/595) were to be found either in the Charter or in the previous resolutions of the General Assembly which had not been applied so far owing to the intransigence of the USSR.

In a detailed reply to these arguments, the representative of the USSR stated that resolution 110(II) of the Assembly, which had condemned war propaganda, had never been really respected and was, moreover, inadequate. The United States Press and leaders in various fields continued to suggest that war against the Soviet Union and the people's democracies was necessary. Thus, Mr. Walsh, member of the Armed Services Committee of the United States House of Representatives, had said that the time would come when the United States would drown the USSR in a flood of atomic bombs. Mr. Nance, President of the University of Tampa (Florida), had advocated preparations for total war, including war with atomic weapons, poison gas, bacteriological weapons and intercontinental rockets. Mr. Carey, Secretary of the Congress of Industrial Organizations (CIO), had expressed the view that in a future war the United States would be allied with fascists against the communists. The present USSR draft declaration sought to make such propaganda a penal offence. As for alleged USSR propaganda, the USSR press and radio certainly criticized the Press, the cinema and other cultural media of the West but that criticism had nothing to do with war. Such criticism was necessary for the growth of a healthy critical attitude in the Soviet Union with regard to foreign cultures.

With regard to the Berlin question, the representative of the Soviet Union stated that, in Paris in 1948, the USSR had agreed to the solution proposed by the six non-permanent members of the Security Council, under the presidency of Mr. Bramuglia, the Foreign Minister of Argentina, but that United States pressure had been brought to bear on the representatives of the six Powers and it had been made impossible to reach an agreement. The Conference of Foreign Ministers, at Paris, in May-June 1949, had reached conclusions on a considerable number of questions concerning Germany and Austria. The conference had settled a number of measures to be taken. But the United Kingdom and the United States had failed to apply those measures and had not desired a settlement of the Berlin question. They had instead used bribes to bring about a railwaymen's strike in Berlin.

As to the Austrian treaty which had been mentioned, the representative of the USSR stated that an agreement had been reached at the Foreign Ministers' Conference in 1949. A communique which had been adopted unanimously by the four Powers had laid down the measures to be taken. Nevertheless the question was still outstanding because in the Western zone, denazification had not been carried out. The Austrian Government itself included some fascists, and in addition, the country was being steadily remilitarized. Moreover the United States, the United Kingdom and France had not respected the provisions of the Italian Peace Treaty relating to the Free Territory of Trieste. It was for that reason that the representative of the USSR at the conference of Deputy Foreign Ministers on Austria had requested, in September 1950, that before new agreements were concluded, the problem of Trieste should be settled and a decision put into effect.

Referring to the prohibition of the atomic weapon and control of atomic energy, the representative of the USSR observed that, under the Acheson-Baruch-Lilienthal plan, all atomic resources, all atomic energy undertakings, key undertakings in the atomic industry which were the foundation of the chemical and metallurgical industries and scientific research work were to be transferred, in their entirety, to the so-called international control commission. It was true that, according to that plan, States possessing atomic energy would retain the right to use that energy for so-called non-dangerous purposes. But it was laid down that the control commission would decide what was dangerous and what was not; it would also determine the quantity of atomic energy that each State might use for peaceful purposes. Thus, the international control body might be able artificially, the USSR representative stated, to retard the economic development of a country. Whereas the function of such an international control body should be to ensure that atomic energy should not be used for military purposes, the United States plan contemplated that it would take over all atomic energy and everything related to it. There had been a time when the USSR had considered that the prohibition of the atomic weapon should precede a control system. It was, then, objected that prohibition without a control system was dangerous. The USSR, realizing that the objection was partly justified, had then made a step forward and had agreed that the control system and prohibition should enter into force simultaneously. But the majority had retreated and had demanded that the establishment of control should precede the conclusion of an agreement on the prohibition of the atomic weapon.

The aggressive policy of the United States was also clearly proved, in the opinion of the USSR representative, by data relating not only to armaments and military appropriations, but also to strategic bases. There were, for instance, the 99-year leases granted by the Philippines in 1947, bases acquired in Taiwan, bases at Okinawa and Surabaya, Spanish and Portuguese bases, bases in the Middle East, Atlantic bases and Arctic bases, the purpose of which, according to the plans drawn up by General Spaatz in 1947, was to attack USSR centres by using the shortest routes.

One argument against the peace pact proposed by the USSR had been that such a pact was already included in the Charter. The provisions of the Charter, however, needed reaffirmation. The pact proposed by the USSR would strengthen peace and the peoples of the world would, then, be free of the nightmare of atomic bombs, the representative of the USSR concluded.

Statements in support of the USSR proposals were also made by the representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR. Broadly speaking, these representatives held the view that the aggressive spirit of the "Western Governments", today, was clearly expressed in the rearmament of the signatories to the North Atlantic Treaty and of Germany. The parties to that Treaty, it was said, had decided, in closed session at a conference held in New York, to reinforce their occupation troops in Germany, to amalgamate their armed forces and to allow Germany to participate in the establishment of those unified forces. The United States, which was more interested in the "defence" of Western Europe than Western Europe itself, had, it was stated, insisted that expenditure on armaments for Western Europe should be doubled to $12,000,000,000. Nazi generals had stipulated conditions for their participation. Eastern European countries which had suffered at the hands of militarist Germany were watching over these developments and were deeply concerned over this violation of the Yalta and Potsdam agreements on the four-Power accord concerning Germany. The plan of the Occupying Powers for the establishment of a Franco-German iron and coal cartel and the Schuman plan, which dealt with the assignment of war industries, were in violation of the obligations undertaken by the Governments of the Western Powers under the quadripartite agreement, and those plans had disturbed the States neighbouring Germany. The Potsdam Agreement, it was maintained, had also been violated with regard to Japan, which the United States was transforming into a "breeding ground of war and a main base for aggression in Asia". The remilitarization of Japan, the construction of United States military bases all over the Pacific, the United States attitude towards the question of the admission of the People's Republic of China to the United Nations, were all evidence of the same aggressive policy. It was that policy which had made possible the United States aggression in Korea. The Soviet Union draft resolution, these representatives concluded, would provide a just and equitable solution to all these international questions. It was an instrument of peace which would help the United Nations in the discharge of its principal tasks and would bring peace and security to the peoples of the world.

The representative of Yugoslavia believed that the USSR proposals, even though acceptable in

parts, would create distrust rather than confidence when viewed against USSR policies which tended to be hegemonic and seemed directed towards undermining the independence of nations. Since 1950, the Government of the USSR and Governments under its influence had carried out an economic blockade of Yugoslavia and had repudiated solemn economic agreements out of purely political motives.

The USSR proposals sought to condemn and penalize war propaganda, yet the concept of war propaganda included the type of propaganda which built up an atmosphere in which people believed in the inevitability of war. The USSR, by accusing other Powers of war preparations, had created that atmosphere. It had, in particular, falsely accused Yugoslavia of having drawn up a plan of aggression with the help of the German general, Kleist. It had, further, through press and radio campaigns, incited the people of Yugoslavia to overthrow the Government. The delegation of Yugoslavia doubted the sincerity of the USSR proposal and would vote against it.

The representative of Canada stated that the USSR representative had misrepresented the plan for atomic disarmament which had been approved by the vast majority of the Members of the United Nations. In this connexion he asked the following questions: Did the USSR admit that any international agreement should include provisions for a strict system of international inspection by which the officials of the international authorities would, at any time and with or without the consent of the State concerned, have the right (a) of continuous inspection of any atomic energy installation or atomic plants of any kind whatsoever, and (b) to search by any means, including observation by air, for undeclared atomic energy facilities wherever the international control agency had any reason to believe that they existed? The representative of the USSR had walked out of the Atomic Energy Commission on a totally irrelevant issue before these vital questions could be examined. His willingness to walk back again would be a test of Soviet good faith in the matter. In conclusion, the representative of Canada stated that to prove its oft-expressed desire to co-operate with all States through the United Nations, the USSR should (a) immediately join in the work of the United Nations specialized agencies devoted to such matters as health and food and agriculture, instead of boycotting them, and should bear its share of burden of assistance to under-developed countries and of relief and rehabilitation in ravaged countries like Korea, and (b) cease the policy of isolating its people, its culture, its progress, from any contacts with the non-communist world.

The representative of Israel stated that the problem of atomic weapons could not be considered apart from the present political tension, which itself was the result of a disregard of the provisions of the Charter condemning aggression. If the United Nations succeeded in coping with all acts of aggression, the difficulties with regard to atomic energy would disappear. The Israeli delegation could not support the USSR draft resolution, which condemned not aggression itself but only the use of the atomic bomb; that might give the impression that the use of other means of mass destruction was more moral than the use of the atomic bomb. He believed that all possibilities of reaching agreement on atomic energy along the lines indicated in General Assembly resolution 191(III)[24] had not so far been exhausted and that further negotiations should be carried on between the "atomic powers" on that subject.

At the 382nd meeting of the Committee on 30 October the USSR draft resolution (A/C.1/595) was put to the vote and rejected in separate paragraphs, as follows:

Preamble—Paragraph 1, by 25 votes to 13, with 15 abstentions; paragraph 2 (voted on in two parts), by 23 votes to 16, with 16 abstentions, and 43 votes to 5, with 7 abstentions; paragraph 3, by 29 votes to 6, with 21 abstentions; paragraph 4, by 35 votes to 12, with 9 abstentions

Operative part—Paragraph 1, by 38 votes to 7, with 12 abstentions; paragraph 2 (voted on in two parts), by votes to 9, with 14 abstentions, and sub-paragraph 2, by 35 votes to 5, with 18 abstentions; introductory paragraph and sub-parargaph (a) of paragraph 3, by 33 votes to 11, with 11 abstentions, and sub-paragraph (b), by 41 votes to 5, with 10 abstentions

(2) Joint Eight-Power Draft Resolution

The Committee next considered the joint eight-Power draft resolution (A/C.1/597/Rev.2) submitted by Bolivia, France, India, Lebanon, Mexico, Netherlands, the United Kingdom and the United States. This draft resolution combined the salient features of a draft resolution (A/C.1/596) submitted, at the 375th meeting, by Bolivia, a joint draft resolution (A/C.1/597) presented at the same meeting by France, Lebanon, Mexico, Netherlands, the United Kingdom and the United States, and a draft resolution (A/C.1/598) submitted at the 377th meeting by India. It also included part of an amendment (A/C.1/605) submitted by Egypt to an earlier revision (A/C.1/597/Rev.1) of the same text. The text of the eight-Power draft resolution (A/C.1/597/Rev.2) follows (the

[24] See Y.U.N, 1948-49, p. 351.

italicized and footnoted phrases indicate the changes made to incorporate points from the Bolivian draft resolution, the Egyptian amendment and the Indian draft resolution):

The General Assembly,

Recognizing the profound desire of all mankind to live in enduring peace and security, and in freedom from fear and want,

Confident that, if all Governments faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security can be established,

Condemning the intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force,[25]

Solemnly reaffirms that, whatever the weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign power, or otherwise,[26] is the gravest of all crimes against peace and security throughout the world;

Determines that for the realization of lasting peace and security it is indispensible:

1 That prompt united action be taken to meet aggression wherever it arises

2 That every nation agree

(a) to accept effective international control of atomic energy under the United Nations on the basis already approved by the General Assembly in order to make effective the prohibition of atomic weapons;

(b) to strive for the control and elimination, under the United Nations, of all other weapons of mass destruction;[27]

(c) to regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction; and

(d) to reduce to a minimum the diversion for armaments of its human and economic resources and to strive towards the development of such resources for the general welfare, with due regard to the needs of the under-developed areas of the world,[28]

Declares that these goals can be attained if all the Members of the United Nations demonstrate by their deeds their will to achieve peace.

The following amendments to the joint eight-Power draft resolution were voted upon and rejected by the Committee:

(i) An Egyptian amendment (A/C.1/605) which would have had the effect of deleting the words "or by fomenting civil strife in the interest of a foreign power" from the fourth paragraph of the preamble, and another Egyptian amendment moved orally after the rejection of the latter, to move the words "or otherwise" so that they may be inserted before the words "or by fomenting".

(ii) A series of amendments (A/C.1/607 & Corr. 1) sponsored jointly by the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR which in addition to retaining most of the provisions of the USSR draft resolution (A/C.1/595), sought to add in paragraph 4 of the preamble after the words "whether committed openly or by fomenting civil strife" and the words "including any form of intervention in a civil war". It was further proposed that the action against aggression, contemplated in paragraph (1) of the operative part, should be in conformity with the principles of Chapter VII of the Charter.

In view of the revised draft resolution India and Bolivia withdrew their draft resolutions and Egypt withdrew the second part of its amendment.[29]

The eight-Power draft resolution, presented as an alternative to the Soviet text, had a large measure of support in the Committee. It was stated that it reflected more accurately than the Soviet draft resolution the wishes of the vast majority of the peoples of the world and of Members of the United Nations. The representative of Netherlands stated that the draft resolution (A/C.1/-597/Rev.2) was not a mere recital of good intentions which, he said, was a feature of the Soviet declaration. The joint draft resolution was an invitation to action and its aims could be achieved by every Member of the United Nations. The representative of Syria stated that the meaning of aggression as envisaged in the draft resolution was not clear. It was questionable whether the "fomenting of civil strife", which was referred to in the draft resolution, constituted a case of aggression. The International Law Commission, he stated, was in the process of studying this question and a question which was still under study should not be prejudged. Therefore it would be preferable to omit the words "or by fomenting civil strife".

The representative of Israel supported the provisions relating to the condemnation of incitement to civil war when it was a foreign Power which was guilty of such incitement. He therefore suggested that in the fourth paragraph of the preamble the wording "by a foreign Power" would be preferable to "in the interest of a foreign Power". However, he stated, the expression of sympathy for one of the parties to a civil war did not amount to incitement to civil war, a point which the text in its present form did not make sufficiently clear. In the light of the General Assembly's new functions enabling it to intervene in cases of aggression, it was necessary to be most careful to avoid too wide and arbitrary a definition of what con-

[25] Incorporating part 2 of the Bolivian draft resolution (A/C.1/596).

[26] [27] Incorporating parts of the Egyptian amendment (A/C.1/605).

[28] Incorporating part of the Indian draft resolution (A/C.1/598).

[29] At the 379th meeting, Greece had submitted a draft resolution (A/C.1/602) which in addition to combining parts of the Indian draft resolution and the original six-Power draft resolution also included the Chilean proposal (A/C.1/603). On the presentation of the eight-Power draft resolution (A/C.1/597/Rev.2) Greece also withdrew its draft resolution while the Chilean text was voted upon and adopted by the Committee separately (see below).

stituted aggression, the representative of Israel concluded.

The representative of Ecuador wished that it should be made clear that the third paragraph of the preamble to the draft resolution was not meant to condemn exclusively those cases where attempts were made to overthrow a legally established government. In his opinion it was important for Latin American countries to have it clearly understood that such a condemnation would include all intervention in the affairs of a foreign government, even if it was illegally established.

The representative of Bolivia, answering the point raised by the representative of Ecuador, stated that the draft resolution was not intended to restrict the general condemnation of all intervention.

Explaining his amendment, the representative of Egypt stated that the object of deleting the words "by fomenting civil strife in the interest of a foreign power" and replacing them by the word "otherwise" was to cover all forms of aggression other than open aggression. The amended version served the purpose aimed at by the eight-Power draft resolution, but was more expressive and less likely to lead to confusion; it should therefore allay the doubts of certain delegations. Moreover the amendment would be the more acceptable inasmuch as the case of intervention by a foreign power in the domestic affairs of another State was already covered in the third paragraph of the preamble.

Refering to the joint amendments (A/C.1/607 & Corr.1) proposed by the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR, the representatives of Bolivia, Canada, France, Netherlands and the United Kingdom stated that they constituted an attempt to reintroduce, as amendments, proposals which had already been rejected by the Committee. As regards the new proposal in the amendment for non-intervention in a civil war, it was stated on behalf of the sponsors of the eight-Power draft resolution that it was designed against the United Nations action in Korea, and was, therefore, not acceptable. The provision regarding condemnation of war propaganda had been, it was stated, included in the Chilean draft resolution (A/C.1/603) and there was no need to repeat it in the joint draft resolution. The proposed reference to Chapter VII of the Charter, it was stated, militated against the Assembly resolution "Uniting for Peace".

The representative of the USSR stated that the joint amendments did not reproduce the text of the rejected USSR draft resolution but only its parts. It was wrong to say that rejection of a proposal as a whole meant that none of its parts could ever be reintroduced in the future. These amendments had been designed to make the joint draft resolution legal and therefore unanimously acceptable. The representative of Czechoslovakia stated that the debate had revealed the existence of deliberate opposition to the Soviet Union and the amendments had not even been discussed by the Committee despite the fact that their object was to strengthen the eight-Power draft resolution and to find a constructive solution to the problems under discussion.

At the 383rd meeting on 3 November the Chairman put the joint eight-Power draft resolution (A/C.1/597/Rev.2) to the vote, paragraph by paragraph and then as a whole by roll-call. The draft resolution was adopted as a whole by 47 votes to 5, with 1 abstention (Yugoslavia).

(3) Chilean Draft Resolution

At the same meeting, the Committee also adopted, by 43 votes to none, with 8 abstentions, a Chilean draft resolution (A/C.1/603) which had been originally submitted as an amendment (A/C.1/601) to the joint draft resolution (A/C.1/597). After having reaffirmed General Assembly resolutions 110(II) and 290(IV), paragraph 8,[30] condemning all propaganda against peace and recommending free exchange of information and ideas, this draft resolution declared that such propaganda likewise includes (i) incitement to conflicts or acts of aggression; (ii) measures tending to isolate the peoples of one country from contact with the outside world; and (iii) measures tending to silence or distort the peace activities of the United Nations or preventing the peoples from knowing the views of other Member States.

b. RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY

The report (A/1490) of the First Committee and the accompanying draft resolutions A and B were presented to the General Assembly at its 308th plenary meeting on 17 November 1950, when the joint amendments by the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR which had been previously rejected by the First Committee were reintroduced with slight changes (A/1505). The USSR also reintroduced the draft resolution (A/1491) which had been rejected in the First Committee.

[30] See Y.U.N., 1947-48, p. 93, and 1948-49, p. 344.

It was decided by 27 votes to 7, with 17 abstentions, not to hold a debate. The President put the joint amendments to the vote first. All the amendments were rejected in votes ranging from 28 to 8, with 13 abstentions, to 37 to 5, with 11 abstentions. Draft resolution A recommended by the First Committee was then put to the vote and adopted by 50 votes to 5 with 1 abstention.

Draft resolution B was adopted by 49 votes to none, with 7 abstentions.

Explaining his vote, the representative of the USSR said that the text submitted by the First Committee under the title "Peace through Deeds" was unsatisfactory as it did not even "hint" at deeds favourable to peace. It omitted to provide for the prohibition of atomic weapons and only recommended the control of atomic energy. It also did not seek to promote the reduction of armaments. It was also inadequate as regards the prevention of war propaganda. War propaganda in the United States had, he stated, actually increased since the passing of the General Assembly resolution 110(II) and now even permeated schools. He referred to a children's magazine Junior Review, published in Washington, which was allegedly used as a basis for lessons to children from ten to fourteen years of age and which, in one issue, had praised the "armada of bombers" which, the magazine stated, could bomb the whole of Russia from bases in Alaska. Urgent measures should be taken to stop such propaganda.

The representative of the Union of South Africa stated that he had abstained from voting on paragraph 2(a) of the resolution, which dealt with the control of atomic energy, because his country during its gold-mining operations found it necessary to mine uranium also, since that material occurred as a component of gold-bearing conglomerates of the Witwatersrand gold mines. He, however, expressed his Government's wholehearted support of atomic energy control. The matter was being studied from an economic point of view by his Government. He had, therefore, voted for the resolution with that reservation.

Statements in explanation of their votes were also made by the representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR. They held that none of the resolutions just adopted by the Assembly could help to relieve international tension, or to maintain and strengthen international peace and security. On the contrary they were vague and ambiguous and created an atmosphere favouring the machinations of groups who were seeking to bring about a new war. The joint eight-Power draft resolution, it was stated, deliberately refrained from providing for any practical measures, in particular, the prohibition of the atomic weapon and the reduction of armaments and armed forces during the year 1950-51. It was, as a matter of fact, the last link in the chain of documents which were intended to legalize armed intervention in the domestic affairs of States. On the other hand, these representatives considered, the USSR draft resolution and the joint amendments had been intended to avert the threat of a new war, to reduce the burden of military budgets and to establish trust among States. They expressed the desire of all peace-loving peoples for peace. These representatives had, therefore, voted against the joint eight-Power draft resolution and for the USSR draft resolution as well as for the joint amendments to the eight-Power draft resolution.

At the request of the representative of the USSR, the preamble and the operative parts of the USSR draft resolution were voted upon separately and paragraph by paragraph. The preamble was rejected by 31 votes to 5, with 11 abstentions. Paragraphs 1 to 3 were each rejected by 35 votes to 5, with 11 abstentions.

The resolutions adopted by the Assembly at its 308th plenary meeting read as follows. Resolution 380(V):

The General Assembly,

Recognizing the profound desire of all mankind to live in enduring peace and security, and in freedom from fear and want,

Confident that, if all governments faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security can be established,

Condemning the intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force,

1. Solemnly reaffirms that, whatever the weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world;

2. Determines that for the realization of lasting peace and security it is indispensable:

(1) That prompt united action be taken to meet aggression wherever it arises;

(2) That every nation agree:

(a) To accept effective international control of atomic energy, under the United Nations, on the basis already approved by the General Assembly in order to make effective the prohibition of atomic weapons;

(b) To strive for the control and elimination, under the United Nations, of all other weapons of mass destruction;

(c) To regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction;

(d) To reduce to a minimum the diversion for armaments of its human and economic resources and to strive towards the development of such resources for the general welfare, with due regard to the needs of the under-developed areas of the world;

3. Declares that these goals can be attained if all the Members of the United Nations demonstrate by their deeds their will to achieve peace.

Resolution 381(V):

The General Assembly,

1. Reaffirms its resolutions 110(II) and 290(IV), paragraph 8, which condemn all propaganda against peace and recommend the free exchange of information and ideas as one of the foundations of good-neighbourly relations between the peoples;

2. Declares that such propaganda includes:

(1) Incitement to conflicts or acts of aggression;

(2) Measures tending to isolate the peoples from any contact with the outside world, by preventing the Press, radio and other media of communication from reporting international events, and thus hindering mutual comprehension and understanding between peoples;

(3) Measures tending to silence or distort the activities of the United Nations in favour of peace or to prevent their peoples from knowing the views of other States Members.

3. Establishment of a Permanent Commission of Good Offices

On 26 September 1950, Yugoslavia requested (A/1401) that the item "Establishment of a permanent commission of good offices" be included in the agenda of the fifth session of the General Assembly. The Assembly, at its 294th plenary meeting on 23 October, on the recommendation of the General Committee, admitted the item on its agenda and referred it to the First Committee.

a. CONSIDERATION IN THE FIRST COMMITTEE

The First Committee considered the question at its 390th and 391st meetings on 9 and 10 November 1950.

There were four draft resolutions before the Committee:

(i) Draft resolution by Yugoslavia attached to its request (A/1401) for the inclusion of the item on the agenda. It recommended that all States should develop the greatest measures of initiative in the peaceful settlement of disputes by direct negotiations and other means, in accordance with Article 33 of the Charter. The resolution further provided for the establishment of a permanent commission of good offices for the purpose of facilitating direct negotiations and of applying other means of peaceful settlement. The commission, it was proposed, should consist of six non-permanent members of the Security Council and of six Member States other than the permanent members of the Security Council to be elected by the General Assembly.

(ii) Draft resolution by Uruguay (A/C.1/616), which, after calling attention to the provisions of Article 33 of the Charter and to the terms of reference of the Interim Committee, proposed to refer the item to the Interim Committee for consideration, together with the relevant proposals and records of the discussions.

(iii) Draft resolution by Lebanon (A/C.1/617), which called attention to the study by the Interim Committee of the question of the establishment of a permanent organ of conciliation; proposed to refer the Yugoslav draft resolution to that Committee for study in that connexion; and requested the Interim Committee to give priority to its consideration of the question in its programme of work.

(iv) Joint draft resolution by Lebanon and Uruguay (A/C.1/621) presented at the conclusion of the debate, which combined the provisions of the draft resolutions of Lebanon and Uruguay with the ommission of the final provision of the Lebanese draft resolution by which the Interim Committee was requested to give priority to its consideration of the question.

Opening the debate, the representative of Yugoslavia stated that the functions of the two main organs of the United Nations, the Security Council and the General Assembly, had been divided in such a way that neither had so far undertaken the task of eliminating the initial causes impeding the establishment of friendly relations among States. The Security Council, for example, had been indifferent to questions which had not yet deteriorated to the point of directly threatening peace. The Assembly's wide membership and "unstable character", the representative of Yugoslavia said, did not allow it to be continuously on the watch and to enter into individual situations.

The General Assembly was competent, under Article 13 of the Charter, to assume the duty of promoting good relations among States. Nevertheless, concrete disputes or litigious questions between States necessitated long study which could not be undertaken by a body whose agenda was regularly overloaded. Moreover, the susceptibility of the States concerned required that such questions should be examined in smaller bodies, with less publicity. Finally, situations and disputes could arise at any time, and it would be impossible to call a special session of the Assembly for each one of them.

The Assembly should, therefore, create a subsidiary organ whose task would be to facilitate contact between the parties for the purpose of negotiation, or use other means for the peaceful solution of international disputes. Such contact would minimize the adoption of intransigent attitudes, promote a spirit of compromise and prevent a dispute from assuming threatening proportions.

Explaining the task of the proposed commission, the representative of Yugoslavia observed that it would watch and examine disputes or

litigious questions on the agenda of the General Assembly and of the Security Council, and explore the possibilities of a settlement satisfactory to the parties and in harmony with the principles of the Charter. It would also examine such possibilities with regard to questions not yet placed on the agenda of these organs. Since the competence of the commission would be limited to offering its good offices and advice, it would not overlap with the competence of the other organs of the United Nations.

The Yugoslav proposal excluded the permanent members of the Security Council from the membership of the proposed commission, since a question with which it dealt might deteriorate and later be brought before the Security Council, in which case, had they been members of the commission, the impartial consideration of the Council members would become more difficult. Moreover, the representative of Yugoslavia continued, the role of the permanent members as mediators might be affected by the interest which they would be likely to have in the dispute under consideration.

The representative of Lebanon recalled that his delegation had submitted a draft resolution similar to the present Yugoslav draft at the first session of the Interim Committee (A/AC.18/15 & A/AC.18/30). The proposal, together with the amendments submitted by the delegation of the Dominican Republic, had been studied by the Interim Committee's Sub-Committee on International Co-operation in the Political Field. The Interim Committee had decided to study the matter in connexion with the consideration of the peaceful settlement of disputes, as part of its long-term study programme. Since the Yugoslav draft was similar to that submitted by Lebanon to the Interim Committee, the delegation of Lebanon proposed that both proposals should be referred to the Interim Committee.

The representatives of Australia, Belgium, Canada, Egypt, France, Peru, Syria, the United Kingdom, the United States and Uruguay expressed the view that the Yugoslav draft resolution entailed certain constitutional and legal difficulties. For example, it was contended, the draft resolution provided that the proposed commission would be dealing with disputes or litigious questions before the General Assembly had had an opportunity to decide whether they would be admitted to its agenda. Under the proposed resolution, furthermore, the commission might discuss questions already on the Security Council agenda. However, since the commission was to be a subsidiary organ of the General Assembly, Article 12 of the Charter would preclude such consideration. Besides, it was argued, the establishment of ad hoc commissions for specific tasks would be preferable to the establishment of a permanent body. Membership of the commission as proposed would be excessively rigid and would lack the flexibility of ad hoc commissions. Moreover, experience had proved—as in the case of Kashmir—that a small commission or a single mediator could be more effective than a large commission. It was also maintained that multiplication of organs for the peaceful settlement of disputes might lead to confusion in that field. The right of powers not parties to a dispute to offer their good offices was generally recognized, and recourse to that method was more likely to be well received.

These representatives therefore felt that since the Interim Committee was continuing its study of machinery for the peaceful settlement of disputes and still had before it the Lebanese proposal for the creation of a conciliation commission, the Yugoslav proposal should be referred to the Interim Committee for study and report.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR stated that the Yugoslav draft was based on two misconceptions, (1) that there was no organ of the United Nations which could facilitate direct negotiations between parties to a dispute and (2) that it was not within the competence either of the Security Council or of the General Assembly to promote relations of good neighbourliness between States. But the Yugoslav position was contradicted by the whole of Chapter VI of the Charter, and especially by Article 33, which provides that the Security Council can call upon the parties to settle their disputes by peaceful means. Under Article 34, the Security Council could "investigate any dispute, or any situation which might lead to international friction". Finally, Article 37 laid down that, should the parties to a dispute fail to settle it by peaceful means, they should refer it to the Security Council, which would make recommendations.

The provisions of these Articles, in the opinion of these representatives, clearly indicated that it was a function of the Security Council to facilitate negotiation between the parties with a view to the settlement of their disputes. As the Security Council was the organ appointed by the Charter to recommend action, to improve international relations and to establish good neighbourly relations, it was futile to set up a new organ which would be given the functions vested in the Security

Council under Chapter VI of the Charter. The establishment of such an organ would be a violation of the Charter and would sabotage the work of the Security Council.

The terms of reference of the proposed commission would include not only the consideration of disputes but also the taking of decisions and the making of recommendations to the parties, without requiring the approval of the General Assembly or the Security Council. Thus, it was proposed to establish an independent organ which would replace the Security Council for the peaceful settlement of disputes, although, under the Charter, the Council had the primary responsibility in this respect. True, the Charter provided for the establishment of subsidiary organs, but the Yugoslav draft resolution would establish an independent organ with functions broader than those of a subsidiary organ. Furthermore, the fact that the five permanent members of the Security Council would be excluded from the Commission made it evident that the proposal violated the Charter by setting at naught the principle of the unanimity of the five permanent members.

As regards the joint draft resolutions of Lebanon and Uruguay, these representatives argued that the Interim Committee itself was an illegal body which had been set up to duplicate the functions of the Security Council. It had, moreover, proved completely ineffective. These representatives therefore indicated that they would vote against both the original Yugoslav proposal and the proposal to refer the question to the Interim Committee.

The joint draft resolution of Lebanon and Uruguay (A/C.1/621) was adopted by the Committee at its 391st meeting on 10 November 1950 by 46 votes to 5, with 5 abstentions.

The Chairman ruled that a vote on the Yugoslav draft resolution accordingly was unnecessary.

b. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The report (A/1501) of the First Committee containing its draft resolution was presented to the General Assembly at its 308th plenary meeting on 17 November 1950. The Assembly adopted the draft resolution without a debate, by 45 votes to 5, with 3 abstentions. The text of the resolution 379(V) follows:

The General Assembly,

Mindful of the provision in Article 33 of the Charter that 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, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice;

Recalling that in General Assembly resolution 295-(IV) the Interim Committee of the General Assembly is charged to consider systematically the further implementation of that part of Article 11 (paragraph 1) of the Charter relating to the general principles of co-operation in the maintenance of international peace and security and of that part of Article 13 (paragraph 1 a) which deals with the promotion of international co-operation in the political field,

Considering that the Interim Committee of the General Assembly has already begun to study the question of the establishment of a permanent conciliation organ like that proposed by Yugoslavia,

Considering that the study of this question is important and urgent,

1. Decides to refer to the Interim Committee item 73 of the agenda of the present session (Establishment of a permanent commission of good offices);

2. Recommends to the Interim Committee, in continuing its systematic examination of machinery for the pacific settlement of disputes, to study this item in connexion with the question of the establishment of a permanent organ of conciliation and taking into account the proposal introduced by Yugoslavia pursuant to item 73 and the discussions of the fifth session of the General Assembly on that item.

4. Duties of States in the Event of the Outbreak of Hostilities

On 26 September 1950, Yugoslavia requested (A/1399) that the item "Duties of States in the event of outbreak of hostilities" be included in the agenda of the fifth session of the General Assembly. The Assembly at its 294th meeting, on the recommendation of the General Committee, included this item in its agenda and referred it to the First Committee for consideration and report.

a. DISCUSSIONS IN THE FIRST COMMITTEE

The First Committee considered the item at its 384th to 390th meetings from 4 to 9 November 1950. In the course of the debate three draft resolutions were submitted, one by Yugoslavia (A/C.1/604), one by the USSR (A/C.1/608) and one by Syria (A/C.1/610).

(1) Yugoslav Draft Resolution

The Committee first considered the Yugoslav proposal which, in its operative part, recommended that every State which became engaged in hostilities with another State should, within 24 hours, publicly proclaim its readiness to order a cease-fire and to withdraw its forces from the territory or territorial waters of the opposing State and to prohibit the violation by its forces of the air space of the opposing State. Furthermore, the

State should, at midnight of the same day, put into effect the cease-fire order and fulfil the other provisions specified above, completing these within 48 hours from the moment of the cease-fire. To facilitate United Nations action each State was to inform the Secretary-General of the outbreak of hostilities. Any State failing to make the required public statement or to effect the cease-fire order and withdrawal, as required, should be considered as an aggressor and held responsible for the breach of the peace. The resolution was, it was stated, in no way to impair United Nations enforcement action or decisions of the relevant organs of the United Nations. United Nations enforcement action or armed assistance to the victim State in compliance with the obligation of collective defence were to be exempt from the application of this resolution. This was originally submitted with the explanatory memorandum (A/1399) attached to the request for inclusion of the item in the agenda, and later revised as document A/C.1/604.

Introducing his proposals, the representative of Yugoslavia stated that the value of the proposal lay in the following facts: (1) It automatically placed upon the States engaged in hostilities the duty of taking speedy measures to end them before the competent United Nations organs took action. (2) It gave such States another opportunity to settle their disputes by peaceful means even after the outbreak of hostilities, and thus facilitated the role of the United Nations. (3) It filled the gap in the system of collective defence of peace and thus made it more difficult to mask aggression as self-defence. (4) It facilitated the work of the United Nations in the case of the outbreak of hostilities by enabling the Organization to appraise the situation correctly and place the blame for aggressive war on the party responsible. (5) The proposal did not upset the general system of collective action for peace because it did not prejudge the decisions of the Security Council or the General Assembly, nor did it prevent any collective action on the part of the United Nations for the re-establishment of peace, nor impair the right of individual or collective defence.

Several representatives, among them, those of Australia, Costa Rica, France, Greece, the United Kingdom and the United States, although in sympathy with the principles underlying the Yugoslav draft resolution, felt, nevertheless, that in its present form, it might benefit an aggressor. If, for instance, it was argued, State A committed an aggression against State B, then State B, the victim, acting in good faith would make a public declaration as required by the draft resolution. The aggressor, State A, acting in bad faith might, and probably would, make a similar public statement. The question would then arise: what would the victim State be called upon to do under the Yugoslav draft resolution? That proposal would require the victim, having made the public statement, to issue a cease-fire order at midnight of the same day on which the statement was made. This would place the victim at a disadvantage in the face of an advancing army of the aggressor State. The international community could not rely exclusively on automatic criteria in making its decisions. The Yugoslav delegation was, therefore, urged to present a less rigid text.

The representative of Cuba submitted amendments (A/C.1/609) to the effect that the victim State should retain its right of self-defence and that the Peace Observation Commission[31] should be used to determine the hour of the cease-fire and withdrawal of forces, such withdrawal to take place only after complete withdrawal by the attacking State. The Cuban amendments further proposed the deletion of the provision for notifying the Secretary-General about the outbreak of hostilities. It was also proposed that instead of the State which failed to observe the provisions laid down in the first two paragraphs of the draft resolution being automatically declared an aggressor, the Peace Observation Commission should determine the aggressor on the basis of non-compliance with these recommendations.

The Cuban amendments were, however, withdrawn in view of modifications later incorporated in another revised text (A/C.1/604/Rev.1) of the Yugoslav draft resolution which provided, among other things, that, if a State became engaged in an armed conflict, it should take all practicable steps compatible with the right of self-defence to bring this conflict to an end at the earliest possible moment.[32] The provision regarding the public statement was modified so that in the new text the discontinuance of military operations and withdrawal of forces would be subject to terms or conditions agreed upon by the parties or indicated by the appropriate organs of the United Nations. The text relating to the notification to the Secretary-General was also modified, and a recommendation added that the notification should contain an invitation for the dispatch of the Peace Observation Commission, The provision regarding the determining of the aggressor was modified so that the conduct of the States regarding

[31] See p. 194.

[32] Italics indicate changes in the Yugoslav draft resolution as a result of its revision.

these recommendations should be taken into account in determining responsibility for the breach of peace or act of aggression.

The representative of the United Kingdom proposed an amendment (A/C.1/614) to the revised text (A/C.1/604/Rev.1) which provided that in the proclamation it would be declared that a State would discontinue military operations and withdraw its forces if the opposing State did the same. This amendment was accepted by the representative of Yugoslavia.

An Egyptian draft resolution (A/C.1/613) based on the revised Yugoslav draft resolution (A/C.1/604/Rev.1), which varied from the latter in the phrasing of the first paragraph of the preamble and the last paragraph of the operative part, was withdrawn in view of the final revision (A/C.1/604/Rev.2) of the Yugoslav draft resolution. This revised text incorporated, with one modification, the text of the first paragraph of the preamble of the Egyptian draft resolution and also the United Kingdom amendment. To meet the Egyptian point of view, a reference to rights and obligations deriving from the recommendations of competent organs of the United Nations was deleted. The new text of the Yugoslav draft resolution[33] (A/C.1/604/Rev.2) reaffirmed that armed force shall not be used except in the common interest and not against the territorial integrity of any State.[34] In its operative part, (1) it recommended that a State on becoming engaged in armed conflict with another State was to take all practicable steps compatible with the right of self-defence to end the conflict as early as possible; (2) in particular, it should, within 24 hours, proclaim its readiness, if the other State does likewise,[35] to discontinue military operations and withdraw its forces; (3 and 4) it was to notify the Secretary-General and invite the dispatch of the Peace Observation Commission. A fifth paragraph provided that the conduct of the States concerned in relation to these matters was to be taken into account in determining responsibility for the breach of the peace or act of aggression.

The representatives of Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR were opposed to the revised draft resolution (A/C.1/604/Rev.2). They held that its wording instead of exposing or deterring an aggressor would, in fact, assist him. The Yugoslav draft resolution, it was stated, continued to disregard the fundamental duties of States prior to the outbreak of hostilities. Those duties were contained in Chapter VI of the Charter. In cases of danger to international peace, the Security Council had very important functions, but the Yugoslav draft resolution ignored Article 39 of the Charter, which provided that the Council is to determine the existence of any threat to the peace, breach of the peace or act of aggression.

Citing the explanatory memorandum (A/1399) accompanying the Yugoslav draft resolution, the representative of the USSR said that it contained the words "Chapters V, VI and VII of the Charter had entrusted the Security Council with the task of eliminating an imminent menace against international peace and security when it had already appeared." The Yugoslav delegation therefore seemed to assume that the Security Council could not take action until a breach of the peace had occurred. That argument was erroneous since it was clear from Chapter VI, Article 33, of the Charter that the Security Council should, when it deemed necessary, take steps to settle any dispute or situation which was likely to endanger peace and security.

Article 34, it was maintained, had also been misunderstood by the Yugoslav delegation. Under this Article, the "Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute", and the purpose of such investigation was "to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security". There again the Security Council was called upon to take action not in the event of aggression or of an actual threat to peace but in anticipation of it. Articles 35, 36, 37 and 38 were also based on the same principle. But the Yugoslav delegation, the USSR representative stated, seemed to imply that the functions of the Security Council were limited to eliminating direct threats to peace which had already become apparent.

These representatives held that paragraph 1 of the operative part of the revised Yugoslav draft resolution did not provide the correct procedure even for a State which had been attacked since such a State should invite action by the Security Council. Further, in the same paragraph, it was not clear whether the aggressor or the victim was under discussion. It appeared from the text that the reference was to the victim, but that inference was contradicted in the next paragraph, which referred to the State withdrawing its invasion forces. Only "guess work", it was argued, could decide

[33] For text as adopted by the Assembly, see p. 213.

[34] The Egyptian draft resolution referred only to States Members of the United Nations.

[35] Incorporating the United Kingdom amendment (A/C.1/614).

which State had the right of self-defence and which should withdraw its forces. This again would enable an aggressor to take advantage of an obscure situation in the event of a conflict.

It was said that paragraph 2 evidently dealt with the "duties of an aggressor" and would permit it, after making the required statement, to be exonerated from all blame. Such a provision would be of assistance to the aggressor, for within 24 hours a strong aggressor could invade an unprepared nation with atomic weapons and other modern means of warfare and so paralyse it that its Government could no longer function and would even be unable to appeal to the Security Council. Yet it was proposed to exonerate the aggressor from all blame if it declared its readiness to withdraw. Paragraph 5 stated that the conduct of the States concerned should be taken into account in determining responsibility for a breach of the peace. In the hypothetical case under discussion the victim would be paralysed, and the aggressor would achieve its objective within 24 hours and still be cleared of all blame.

Paragraph 3 of the operative part of the draft was no more than an unnecessary repetition of the provisions of the Charter although elsewhere the Charter was disregarded. Paragraph 4, it was argued, referred to the Peace Observation Commission, but the question of having recourse to the Commission was for the Security Council or the Assembly to decide. The proper procedure for that was laid down in the resolution entitled "Uniting for Peace". The victim of aggression might be paralysed with such speed as to be unable to ask for the dispatch of the Commission.

With reference to the words "take all steps practicable in the circumstances" in the first paragraph of the operative part of the draft resolution, it was stated that it was always easy to find impracticable "in the circumstances" measures which should be practicable. Such vague terminology left it to the discretion of the aggressor to decide whether steps were practicable or impracticable. It was also pointed out that the revised draft resolution did not provide for a time-limit within which hostilities were to cease as had been done in the original text. This would leave the aggressor free to deal with the victim as it deemed fit, and to choose its own moment for issuing the required statement.

In conclusion, the representative of the USSR stated that the main purpose of the United Nations was to set an insurmountable obstacle in the path of aggression and to call the aggressor to account. The Soviet Union considered that immediate and effective measures should be taken in the event of aggression. The victim of aggression should be taken under the protection of all peace-loving States, and the aggressor should be opposed by the combined forces of Member States.

The question then arose of determining which was the attacker State, the aggressor; which was the guilty party and which the victim.

The Yugoslav draft resolution would not make it possible for either the General Assembly or the Security Council to determine the aggressor inasmuch as it would give the latter enough time to achieve its aim. The Yugoslav proposal did not fulfil its declared purpose, and the USSR delegation therefore considered it necessary to submit its own proposal to elucidate the question of defining aggression.

Replying to the criticism levelled against the draft resolution, the representative of Yugoslavia drew attention to the time taken in the consideration of such cases by United Nations organs. At least half a day, he said, would elapse after an attacked country had applied for United Nations assistance, before a meeting of the Security Council could be convened. That meeting might be attended by the protectors of the aggressor, some of which might, conceivably, enjoy the right of veto. Prolonged discussion might delay a decision indefinitely. Experience had shown, it was contended, that even in the most favourable circumstances, the Security Council would not be able to take a decision concerning a cease-fire more rapidly than through the procedure provided for under the draft resolution. That procedure would also eliminate the delays which might be caused by inviting the parties to appear before the Security Council.

If the Council were prevented from acting by a "veto" the dispute would go before the General Assembly, which under its resolution "Uniting for Peace" could not be convoked in less than 24 hours. (The representative of Yugoslavia recalled that the USSR and its supporters had requested that fourteen days' notice should be given for an emergency Assembly session.)

As a rule, under the present draft resolution, it was stated, the State which was the victim of an attack would appeal to the Security Council immediately after the outbreak of hostilities, stating at the same time that it was ready to cease hostilities if the other party did likewise. The Council could, thus, be acquainted with the attitude of the other party towards the end of the same day. If the other party also made a statement concerning the cease-fire, United Nations mediation to end fighting and to bring about a speedy withdrawal of

troops could begin within 24 hours of the outbreak of hostilities. If such a statement were not made by the other party, the United Nations organs could immediately take collective measures against the aggressor which would, by that very fact, have shown its aggressive intention. The Yugoslav draft resolution, it was argued, did not offer any grounds for the allegation that it would allow an aggressor to go unpunished for its aggressive action. Even after the aggression had ceased, the United Nations had the right to punish the State which initiated the aggression. The representatives of Argentina, Australia, Bolivia, Cuba, Egypt, France, Lebanon, Netherlands, New Zealand, United Kingdom and the United States expressed satisfaction with the Yugoslav draft resolution as finally revised and stated that they would vote for it.

(2) USSR Draft Resolution

As an alternative to the Yugoslav proposals the USSR had presented at the 385th meeting of the Committee, a draft resolution (A/C.1/608). Under its terms the General Assembly, considering it necessary, in the interests of general security and to facilitate agreements on the maximum reductions of armaments, to define the concept of aggression so as to forestall any pretext which might be used to justify it; recognizing that all States have equal rights to independence, security and the defence of their territory against aggression or invasion within the limits of their own frontiers; and considering it necessary to formulate essential directives for such international organs as might be called upon to determine which party was guilty of attack would declare that in an international conflict that State should be declared the attacker which first committed one of the following acts: declaration of war against another State; invasion by its armed forces, even without a declaration of war, of the territory of another State; bombardment of the territory of another State or deliberate attack on the ships or aircraft of the latter; the landing or leading of its land, sea or air forces inside the boundaries of another State without the permission of the Government of the latter, or the violation of the conditions of such permission, particularly as regards the length of their stay or the extent of the area in which they may stay; naval blockade of the coasts or ports of another State. Attacks such as those specified might not be justified by any arguments of a political, strategic or economic nature, or by the desire to exploit natural riches in the territory of the State attacked or to derive any other kind of advantages or privileges, or by reference to the amount of capital invested in the State attacked or to any other particular interests in its territory, or by the affirmation that the State attacked lacks the distinguishing marks of statehood. The draft resolution listed fifteen considerations which, it stated, might not be used as justifications for attack, in the following terms:

A. The internal position of any State; as, for example:
  (a) The backwardness of any nation politically, economically or culturally;
  (b) Alleged shortcomings of its administration;
  (c) Any danger which may threaten the life or property of aliens;
  (d) Any revolutionary or counter-revolutionary movement, civil war, disorders or strikes;
  (e) The establishment or maintenance in any State of any political, economic or social system;

B. Any acts, legislation or orders of any State, as for example:
  (a) The violation of international treaties;
  (b) The violation of rights and interests in the sphere of trade, concessions or any other kind of economic activity acquired by another State or its citizens;
  (c) The rupture of diplomatic or economic relations;
  (d) Measures in connexion with an economic or financial boycott;
  (e) Repudiation of debts;
  (f) Prohibition or restriction of immigration or modification of the status of foreigners;
  (g) The violation of privileges granted to the official representatives of another State;
  (h) Refusal to allow the passage of armed forces proceeding to the territory of a third State;
  (i) Measures of a religious or anti-religious nature;
  (j) Frontier incidents.

Finally it provided that, should a State be threatened by the concentration by another State of considerable armed forces near its frontier, it should have the right of recourse to diplomatic and other means of securing a peaceful settlement of international disputes. It might also adopt requisite measures of a military nature, without, however, crossing the frontier.

In support of the USSR draft resolution, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR observed that in case of an international conflict involving the use of force it was important, before taking collective action against the aggressor, to determine which was the guilty party. The importance of a definition of aggression had been shown during the efforts made under the auspices of the League of Nations to strengthen peace by means of disarmament. During the second session of the Disarmament Conference, in 1933, the USSR had submitted a proposal which, in spite of the objections made by certain Powers, was adopted by the Committee on Security Questions. The Soviet definition of aggression had also been adopted by

seventeen other States in connexion with the signing of an international convention on that subject in London in July 1933.

The question of a definition of aggression had also been dealt with in certain international agreements, such as the Treaty of Mutual Assistance, signed at Rio de Janeiro in September 1947. Nevertheless, no existing texts defined aggression as completely and as satisfactorily as did the USSR proposal of 1933. That definition had helped to expose the aggressive policy of fascist States and to mobilize the democratic forces against the aggressors. Events like the Ethiopian war or the attack on Pearl Harbor showed how aggressors trove to camouflage their actions by excuses based on international events or internal policy. In order to safeguard the objectives of the Charter, the Assembly should adopt the USSR draft resolution which, on the one hand, described various forms of aggression and, on the other, exposed the excuses which were normally given to justify acts of aggression.

A number of representatives, among them those of Canada, Colombia, France, Greece, the United States and Uruguay, spoke against the USSR draft resolution. The representative of Colombia, while agreeing that the definition of aggression which lad been given in the London treaties of 1933 between the USSR, the Baltic States, the Balkan States and several States of the Middle East was he best available, held that a universally accepted definition had not been formulated. On the other hand, the principle that an international organization should determine the existence of individual acts of aggression had slowly gained ground. Thus, under the Charter, it was the Security Council which established and determined the existence of any act of aggression. The absence of a rigid rule for determining an aggressor was a step forward and would help in eliminating difficulties encountered by the League of Nations. Since the United Nations had the responsibility for taking measures to put an end to aggression, it should also have the responsibility for determining the aggressor.

The representative of the United States said that it was not clear why the USSR had submitted its draft resolution under the item "Duties of States in the event of outbreak of hostilities". The USSR proposal was almost identical with the one submitted to the League of Nations by Mr. Litinov in 1933. At that time there had been a difference of opinion concerning the desirability of a comprehensive definition of aggression. At the United Nations Conference on International Organization at San Francisco, the Committee which had competence on the subject had decided that the question went beyond the purposes of the Charter and it had been decided to let the Security Council determine whether a given set of facts constituted aggression or not. His Government had always held that no definition of aggression could be exhaustive and that any omission might encourage an aggressor. The definition proposed by the USSR, for example, did not include indirect aggression such as subversion or the fomenting of civil strife. Any attempt at a comprehensive definition of aggression was inconsistent with the Charter, particularly Article 39, which provided that the Security Council should determine the existence of any act of aggression and take steps to put an end to it.

The representative of Canada stated that the numerous difficulties raised by the criteria proposed by the Soviet Union could be seen by reference to certain concrete historical situations. In 1939, for example, France and the United Kingdom had formally declared war on Germany. Was it, however, to be denied, on the basis of the principles contained in the USSR draft resolution, that the Nazis were the aggressors?

Similarly, the western sectors of Berlin had been subjected to economic blockade in 1948. Paragraph 1(d) of the operative part of the USSR draft resolution—which, incidentally, was regrettably silent on the subject of land blockade—condemned as an act of aggression the landing or leading of land, sea or air forces inside the boundaries of another State without the permission of the latter's Government. Was it to be claimed, in that case also, that the movement of supplies through the eastern zone of Germany to Berlin by military convoys, an action which might have become necessary to maintain the position of the Western Powers in Berlin, would have constituted an act of aggression?

Further, the USSR draft resolution would have been of no greater utility at the time of the outbreak of the Korean war in June 1950. Whereas the United Nations Commission on Korea had stated that the North Korean forces had attacked first and had crossed the 38th parallel, the Soviet Union continued to claim that it was the territory of North Korea which had first been invaded. The USSR draft would have been of no help in deciding on a question of fact of that kind and, indeed, all that an aggressor would have to do to frustrate the purpose of the Soviet proposal would be to claim that the other party had attacked first, which was what North Korea had actually alleged.

The representative of Uruguay stated that paragraph 2 of the operative part of the USSR draft resolution merely enumerated certain motives which should not be used as pretexts for aggression. Article 2, paragraph 4, of the Charter, however, forbade the threat or use of force for any reasons whatever. It was therefore absurd to forbid beforehand certain motives which might be used to justify aggression since it would mean that the motives which were not enumerated were a justification for aggression.

(3) Syrian Draft Resolution

The representative of Syria observed that a definition of aggression was required in international law just as definitions of crime were required under the common criminal code. He disagreed with the argument that a definition of aggression would enable aggressors to arrange their actions so as to remain outside the scope of the definition and thus avoid being accused of aggression. If that were the case the definition of crimes under the common criminal code would also be harmful. The USSR draft resolution, he stated however, was incomplete and did not correspond to the situation existing in 1950. He therefore submitted a draft resolution (A/C.1/610) which requested the International Law Commission to include the definition of aggression in its studies for formulating a criminal code for international crimes, and to submit a report on the subject to the General Assembly.

Two amendments were submitted to the Syrian draft resolution. One, by Sweden (A/C.1/611), provided that both draft resolutions, that submitted by the USSR (A/C.1/610), and that submitted by Yugoslavia (A/C.1/604), be transmitted to the International Law Commission together with the amendments and the minutes of discussions in the First Committee. This amendment was, however, withdrawn in view of the final revision of the Yugoslav draft resolution (A/C.1/604/Rev.2). The second amendment to the Syrian draft resolution was proposed by Bolivia (A/C.1/612), and provided for the addition in the operative part of the draft resolution of the provision that the USSR proposal be referred to the International Law Commission together with the records of the First Committee on the question. In a subsequent revision of the amendment (A/C.1/612/Rev.1) the representative of Bolivia added the further instruction that these records should be taken into consideration by the International Law Commission in formulating its conclusions.

The representative of Syria, in order to meet the Bolivian point of view, submitted a revised draft resolution (A/C.1/610/Rev.1) which took these amendments into account.

At the 390th meeting of the Committee, the representatives of Bolivia and Syria presented a joint draft resolution (A/C.1/615) which replaced the Syrian draft resolution and the Bolivian amendment.

(4) United Kingdom Draft Resolution

A discussion developed in the First Committee as to which subsidiary organ of the Assembly should be entrusted with the task of studying the definition of "aggression" and the USSR draft resolution which embodied this definition. The representative of the United Kingdom, supported by the representatives of Australia and France, considered that the USSR draft should be transmitted to the Interim Committee of the Assembly. The representative of the United Kingdom, therefore, submitted a draft resolution (A/C.1/618) to that effect. On a suggestion by the representative of Turkey that reference to the Interim Committee did not necessarily exclude a reference to the International Law Commission, the representative of France moved an amendment (A/C.1/619) to the United Kingdom draft resolution which would have the Interim Committee refer any points of law, arising out of the question to the International Law Commission.

The representatives of Bolivia, Brazil, Chile, Ecuador, Egypt, Philippines and Syria opposed the United Kingdom draft resolution and the French amendment to it, on the ground that the technical and legal aspects of the question were beyond the competence of the Interim Committee, which could only consider the desirability of adopting a definition in case one was evolved by the International Law Commission.

The representatives of the Byelorussian SSR Czechoslovakia, Poland, the Ukrainian SSR and the USSR were opposed to the joint Syrian-Bolivian draft resolution as well as to the United Kingdom draft resolution and the French amendment to it. They held that the Soviet Union proposal had been opposed without sufficient explanation, mainly by a minority led by the United States which was interested in keeping the definition of aggression "flexible". The question, it was maintained, was primarily political and not legal. The definition of aggression was linked with the work of the Security Council and the interpretation of the Charter which the International Law Commission was not competent to consider. As to the

Interim Committee, they considered that it had been constituted illegally, and pointed out that the USSR did not participate in its work. A study of the antecedents of the question of aggression would show that whenever it was raised it had been discussed in political committees.

(5) Voting on the Draft Resolutions

At the 389th meeting of the Committee, the Chairman put the Yugoslav draft resolution (A/C.1/604/Rev.2) to the vote. It was adopted by 51 votes to 5, with 2 abstentions.

At the 390th meeting, on 9 November, the representative of Turkey proposed that a vote should first be taken on the United Kingdom draft resolution. The motion was defeated by 41 votes to 11, with 7 abstentions.

The Bolivian-Syrian draft resolution (A/C.1/-615) was then adopted by 39 votes to 12, with 7 abstentions. The Chairman ruled that a vote on other proposals had become unnecessary.

b. RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY

The report (A/1500) of the First Committee containing two draft resolutions, A, the draft resolution originally proposed by Yugoslavia, and B, that proposed by Syria and Bolivia, was presented to the General Assembly at its 308th plenary meeting on 17 November 1950.

The representative of the USSR submitted an amendment to resolution B to provide that the International Law Commission report on the question not later than the next regular session of the General Assembly.

It was decided by 39 votes to 3 not to hold a debate on the draft resolutions. The USSR amendment was rejected by the Assembly by 22 votes to 12, with 13 abstentions. Draft resolutions A and B were adopted each by 49 votes to 5, with 1 abstention. Explaining their votes the representatives of Czechoslovakia, Poland, the Ukrainian SSR and the USSR reiterated the point of view expressed by them before the First Committee. The representative of the Union of South Africa, explaining his vote, stated that he regarded resolution A adopted by the Assembly as a valuable contribution to the system of collective security.

The text of the draft resolutions (378(V)) follows:

A

The General Assembly,

Reaffirming the Principles embodied in the Charter, which require that the force of arms shall not be resorted to except in the common interest, and shall not be used against the territorial integrity or political independence of any State,

Desiring to create a further obstacle to the outbreak of war, even after hostilities have started, and to facilitate the cessation of the hostilities by the action of the parties themselves, thus contributing to the peaceful settlement of disputes,

1. Recommends:

(a) That if a State becomes engaged in armed conflict with another State or States, it take all steps practicable in the circumstances and compatible with the right of self-defence to bring the armed conflict to an end at the earliest possible moment;

(b) In particular, that such State shall immediately, and in any case not later than twenty-four hours after the outbreak of hostilities, make a public statement wherein it will proclaim its readiness, provided that the States with which it is in conflict will do the same, to discontinue all military operations and withdraw all its military forces which have invaded the territory or territorial water of another State or crossed a demarcation line, either on terms agreed by the parties to the conflict or under conditions to be indicated to the parties by the appropriate organs of the United Nations;

(c) That such State immediately notify the Secretary-General, for communication to the Security Council and to the Members of the United Nations, of the statement made in accordance with the preceding subparagraph and of the circumstances in which the conflict has arisen;

(d) That such State, in its notification to the Secretary-General, invite the appropriate organs of the United Nations to dispatch the Peace Observation Commission to the area in which the conflict has arisen, if the Commission is not already functioning there;

(e) That the conduct of the States concerned in relation to the matters covered by the foregoing recommendations be taken into account in any determination of responsibility for the breach of the peace or act of aggression in the case under consideration and in all other relevant proceedings before the appropriate organs of the United Nations;

2. Determines that the provisions of the present resolution in no way impair the rights and obligations of States under the Charter of the United Nations nor the decisions or recommendations of the Security Council, the General Assembly or any other competent organ of the United Nations.

B

The General Assembly,

Considering that the question raised by the proposal of the Union of Soviet Socialist Republics can better be examined in conjunction with matters under consideration by the International Law Commission, a subsidiary organ of the United Nations,

Decides to refer the proposal of the Union of Soviet Socialist Republics and all the records of the First Committee dealing with this question to the International Law Commission, so that the latter may take them into consideration and formulate its conclusions as soon as possible.

5. Development of a Twenty-Year Programme for Achieving Peace Through the United Nations

a. THE SECRETARY-GENERAL'S MEMORANDUM

This item was placed on the agenda of the General Assembly's fifth session by the Secretary-General, who at the same time communicated to the Assembly a copy of a letter (A/1304) which he had addressed to the Members of the United Nations on 6 June 1950, with a "Memorandum of points for consideration in the development of a twenty-year programme for achieving peace through the United Nations".

In his letter the Secretary-General emphasized that the deterioration of relations between leading Members of the United Nations had created a situation of the most serious concern for the Organization and for the peace of the world. He had accordingly drawn up the Memorandum to suggest means by which the principles of the Charter and the resources of the United Nations could be employed to moderate the existing conflict and to enable a fresh start to be made towards eventual peaceful solutions of outstanding problems.

He stated that he had personally handed this memorandum to the President of the United States on 20 April, to the Prime Minister of the United Kingdom on 28 April, to the Prime Minister of France on 3 May and to the Prime Minister of the USSR on 15 May, and that he had discussed its points with these Heads of Governments and with other leaders of their Governments. From these conversations he had drawn "a firm conviction that the United Nations remains a primary factor in the foreign policy of each of these Governments and that the reopening of genuine negotiations on certain of the outstanding issues may be possible". He pointed out, however, that no significant progress could be made until the question of the representation of China could be settled.

The Secretary-General's ten points were as follows:[36]

1. Inauguration of periodic meetings of the Security Council, attended by Foreign Ministers, or heads or other members of governments, as provided by the United Nations Charter [Article 28, paragraph 2] and the rules of procedure [rule 4]; together with further development and use of other United Nations machinery for negotiation, mediation and conciliation of international disputes.

2. A new attempt to make progress towards establishing an international control system for atomic energy that will be effective in preventing its use for war and promoting its use for peaceful purposes.

3. A new approach to the problem of bringing the armaments race under control, not only in the field of atomic weapons, but in other weapons of mass destruction and in conventional armaments.

4. A renewal of serious efforts to reach agreement on the armed forces to be made available under the Charter to the Security Council for the enforcement of its decisions.

5. Acceptance and application of the principle that it is wise and right to proceed as rapidly as possible towards universality of membership.

6. A sound and active programme of technical assistance for economic development and encouragement of large-scale capital investment, using all appropriate private, governmental and inter-governmental resources.

7. More vigorous use by all Member States of the specialized agencies of the United Nations to promote, in the words of the Charter [Article 55, sub-paragraph a], "higher standards of living, full employment and conditions of economic and social progress".

8. Vigorous and continued development of the work of the United Nations for wider observance and respect for human rights and fundamental freedoms throughout the world.

9. Use of the United Nations to promote, by peaceful means instead of by force, the advancement of dependent, colonial or semi-colonial peoples towards a position of equality in the world.

10. Active and systematic use of all the powers of the Charter and all the machinery of the United Nations to speed up the development of international law towards an eventual enforceable world law for a universal world society.

At the beginning of the Assembly's debate on the question, at its 308th plenary meeting on 17 November 1950, the Secretary-General commented on the points of the Memorandum and explained its purpose. The Memorandum had originated from the consciousness of a grave danger to the United Nations which had arisen as a result of growing international distrust and a consequent diminishing of faith in the efficacy of the United Nations as an instrument of peace. This "fatal tendency", the Secretary-General believed, must and could be arrested by a new and greater effort to employ to the full the resources present in the Charter for conciliation and constructive peace planning. "The old familiar expedients of armies and alliances" which were coming into prominence again should, he thought, be replaced by faith in the United Nations as a principal means of preventing war. The Memorandum, he explained, was not itself a programme but a working paper on which a twenty-year United Nations peace programme might be developed. Detailed consideration of the points by the various organs would, he hoped, lead to definite progress during

[36] The text here quoted of the Secretary-General's ten points is taken from Official Records of the General Assembly, Fifth Session, 308th plenary meeting, pp. 437-41.

the coming year. He then commented on the ten points individually.

1. Periodic meetings of the Security Council, such as he suggested, should be used for a general semi-annual review, at a high level, of outstanding issues, particularly those that involved the Great Powers. They should not be expected to make important decisions every time; they should be held not primarily for public debate but for consultation—much of it informal—to gain ground towards an agreement to clear up misunderstandings and to prepare for new initiatives which might lead later to definitive agreements. The meetings, he suggested, should be held away from the permanent Headquarters and the venue be rotated so that the physical presence of the United Nations might be brought closer to all peoples. The Secretary-General hoped that the practice of using the Council President as rapporteur for mediation and consultation would be encouraged, as also the use of the present machinery for private consultation by the Great Powers.

2. The Secretary-General characterized the problem of the international control of atomic energy as one "that goes to the very heart of the greatest conflict of power and ideology at the present time." He considered that a solution would probably be found only at the end, rather than at the beginning, of a long series of difficult negotiations towards settlement of wider issues. However, he hoped for a resumption of negotiations on the lines of Assembly resolution 299(IV), namely, "to explore all possible avenues and examine all concrete suggestions with a view to determining whether they might lead to an agreement". He suggested that the General Assembly and the Security Council might re-examine the decision to establish two separate commissions, or at least consider the advisability of linking their work more closely together, and recalled a reference to this possibility in President Truman's address to the General Assembly.

3. Disarmament could come only as part of a collective security system and in an atmosphere of mutual confidence such as prevailed among the Allies during the war, but it was also true, he stated, that any progress at all toward regulation of any armaments would help in reducing tensions and assist in the adjustment of political issues. Work on the vast amount of study, discussion and planning required to prepare an effective system of armaments control need not and should not be delayed.

4. The Secretary-General recognized that agreement on the armed forces to be made available to the Security Council was a political issue. He emphasized that the Assembly's important action recommending that Member States have forces available for United Nations service[37] did not in any way diminish the need for and desirability of new efforts to establish the United Nations forces under Article 43. This had been explicitly recognized by the Assembly itself.

5. On the question of universality of membership, the Secretary-General stated that the test provided by the Charter for membership should be applied with wisdom and generosity, bearing in mind first of all, the interests of the peoples concerned rather than the nature of their Governments. The United Nations, he stated, was weakened and not strengthened by the exclusion of countries of Asia that had newly won their independence and of nine European countries which had long ago applied for membership.

6. The Secretary-General considered that a good start had been made on "a sound and active programme of technical assistance for economic development" with the inauguration of the twenty-million-dollar United Nations Expanded Programme, but this was only a beginning. It might be necessary to strengthen the resources of the International Bank and other international organizations operating in this field or to adopt additional methods of financing certain types of capital expenditures in under-developed countries. He confidently looked forward, he said, to the establishment of what had been called during the current Assembly a "United Nations Recovery Force" through which all nations would join in a mutually beneficial effort to raise the low living standards of more than half the human race.

7. Urging wider and more constructive support of the specialized agencies by all Member Governments, the Secretary-General stated that the agencies had become vitally necessary tools for eliminating the economic and social causes of war.

8. Despite evidence that the Universal Declaration of Human Rights would rank as one of the greatest documents of history, the rights it contained, the Secretary-General observed, were not enjoyed by most peoples of the world.

The United Nations had the resources for effecting a peaceful revolution in the field of human rights through international covenants on a right or a group of rights; methods of implementation; assistance to Governments to help create conditions under which economic, social and cultural rights could be enjoyed by greater numbers of peoples; separate action to promote freedom of

[37] See p. 194.

information and the rights of women; and measures to combat slavery, the use of forced labour and discrimination against minorities. These and other such programmes deserved the fullest possible support from Governments and peoples.

9. Speaking of the advancement of dependent peoples, the Secretary-General pointed out that, since the founding of the United Nations, nine countries of Asia, with a population of 600,000,000 people, had gained their independence. In Africa, the United Nations was assisting the former Italian colonies of Libya, Eritrea and Somaliland to achieve independence. Through the Trusteeship System and the Charter provisions relating to other Non-Self-Governing Territories, the United Nations offered the Administering Powers and the peoples under their jurisdiction the best opportunity for peaceful progress towards co-operation for mutual welfare. More use needed to be made of United Nations machinery for this purpose.

10. The Secretary-General called for more vigorous support of the work of the United Nations to speed up the development of international law. The Genocide Convention, adopted unanimously in 1948, had only now secured enough ratifications to bring it into force. Codification and embodiment in conventions of the principles adopted by the Nürnberg Tribunal should be pressed forward. So, also, should other conventions widening the scope of international law, like the Protocol extending the control of narcotic drugs. Systematic development in the next twenty years might yield at least the beginnings of a system of enforceable world law directly applicable to individuals as well as to Governments, on all matters essential to peace and security. Meanwhile, he hoped that the trend of the past year towards greater use of the International Court of Justice, both for the juridical settlement of disputes and for advisory opinions and interpretations of the Charter, would be continued.

b. DISCUSSION IN THE GENERAL ASSEMBLY

The Assembly decided not to refer the twenty-year programme to a committee and discussed the question at its 308th to 312th plenary meetings, from 17 to 20 November 1950. Two draft resolutions were submitted.

The first, a joint draft resolution submitted by Canada, Chile, Colombia, Haiti, Lebanon, Pakistan, the Philippines, Sweden, and Yugoslavia (A/1514), would note the progress made by the present session of the General Assembly with regard to certain of the points contained in the Secretary-General's Memorandum, commend him for his initiative in preparing and presenting it to the General Assembly, and request the appropriate organs of the United Nations to consider those portions of the Memorandum with which they were particularly concerned, reporting on the results of their consideration to the Assembly at its sixth session.

The second draft resolution, submitted by the USSR (A/1525 & Corr.1), would have the Assembly express its approval that the item had been presented and state that it was essential in further developing the programme, to make provisions for (quoted):

(a) the holding of periodical meetings of the Security Council, which shall be fully and legally constituted with the participation of the representative of the People's Republic of China;

(b) unswerving compliance with the principle of unanimity in the work of the Security Council;

(c) the unconditional prohibition of atomic weapons and other weapons for the mass extermination of people, and the institution of control to ensure the observance of that prohibition;

(d) observance, in the preparation of agreements under Article 43 of the Charter of the United Nations for determining the numerical strength and nature of forces made available to the Security Council by the permanent members of the Council, of the principle of equality in respect of the total numerical strength and composition of such forces made available by the permanent members of the Security Council; provided that the Security Council may by specific decision permit a departure from that principle at the request of any permanent member of the Security Council;

(e) the provision of technical assistance to economically-backward countries, in most if not in all cases through the United Nations, on the principle, first, that the purpose of such assistance shall be to promote the development of the domestic resources and the national industry and agriculture of economically backward countries and to strengthen their economic independence, and secondly that such assistance shall not be conditional on compliance with any demand for political, economic or military privileges for countries rendering it;

(f) the development of international trade without discrimination on the basis of equality and respect for the sovereignty of all countries and without interference in the domestic affairs of other States.

Amendments to the nine-Power joint draft resolution were submitted by the United Kingdom (A/1535) and by the USSR (A/1527). The United Kingdom proposed that instead of informing the Assembly of the results of their consideration of the Memorandum, United Nations organs should inform it "of any progress achieved through such consideration".

The USSR proposed that reference to the progress made by the current Assembly session on certain points of the Memorandum be replaced by

a reference to "the importance of the matters dealt with in the Memorandum". It further proposed that the paragraph commending the Secretary-General for his initiative be replaced by the words "approving for consideration the items relating to the development of the twenty-year programme for achieving peace through the United Nations". In the course of the debate the USSR withdrew its amendments.

Two main points of view were expressed in the Assembly. The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR held that the Secretary-General's Memorandum was politically biased in favour of the policies pursued by the "Anglo-American bloc"; it was silent, they said, on such crucial issues as the representation of the Chinese People's Republic in the United Nations and the prohibition of atomic weapons, without which no programme of peace could be initiated. Further, the Secretary-General had not produced concrete proposals but merely a list of issues which needed to be settled.

The programme, they argued, should therefore be amended in the light of the USSR draft resolution (A/1525), which made concrete suggestions on the basis of which real peace could be achieved.

Elaborating these points, the representative of the USSR stated that his country was willing to support any real measures designed to strengthen international peace and security. Accordingly, the Soviet Union had frequently submitted to the United Nations proposals directed towards that end. In their essentials, these proposals were: the prohibition of atomic weapons and strict international control to ensure observance of this provision; the reduction of armaments and armed forces of the permanent Members of the Security Council; the cessation of war propaganda and settlement of Great-Power disputes; and finally the conclusion among them of a peace pact. Unless efforts were made along these lines, there could be no serious question of developing any peace programme whatever through the United Nations.

The USSR representative maintained that the assertion in the Secretary-General's statement that aggression in Korea had come from the North was contrary to facts. The USSR, he said, had frequently submitted proof and documents which confirmed that it was the United States which was the aggressor. The events in Korea had, however, he stated, strengthened the will of the peoples of the world to prevent further aggression and to preserve peace.

In accordance with its policy of peace, the USSR representative stated, the Soviet Union took a favourable view of the proposal that the United Nations should develop a twenty-year programme for achieving peace. The USSR agreed that it was possible to end the so-called "cold war". It also agreed with the statement in the Memorandum that no appreciable progress towards strengthening peace could be achieved until the question of the representation of China in the United Nations had been settled. Similarly, the USSR was prepared to support a number of other proposals in the Memorandum, such as the resumption of talks on atomic energy on the basis of Assembly resolution 299(IV) and the conclusion of agreements on the reduction and regulation of armaments of all types.

The USSR representative considered, however, that the Memorandum was a one-sided, politically biased document. For example, while it contained the acceptable proposal of convening periodic high-level meetings of the Security Council, it passed over in silence the question of China's representation in that organ. Yet the representation of China by its true representatives was essential to co-operation within the United Nations. He proposed to add a provision that the Security Council be made to function with its full membership including the representative of the People's Republic of China.

The political bias of the Memorandum in favour of the views of the Anglo-American bloc was. in the opinion of the USSR representative, shown by the proposal for further efforts to limit the use of the veto. This proposal was contrary to the provisions of the Charter and constituted a denial of one of the basic principles of the United Nations.

A similar bias was shown in the Memorandum's proposal concerning the establishment of an international control system for atomic energy. This proposal reflected the views of delegations which were members of, and participants in, the aggressive North Atlantic Treaty, and which had sponsored an eight-Power resolution under the pretentious title "Peace through Deeds".[38] The Secretary-General's proposal omitted all reference to the banning and unconditional prohibition of atomic weapons simultaneously with the establishment of strict international control. In so doing, the USSR representative stated, it supported a war policy of producing and stock-piling atomic and other hideous aggressive weapons. In this connexion, he alleged that the Secretary-General had

[38] For text, see pp. 203-4.

come to Moscow with his Memorandum after it had been sanctioned first by the State Department of the United States and then by the Foreign Office in London and by the Prime Minister of France. He considered it essential that the programme should provide for unconditional prohibition of the atomic weapon.

Referring to the Stockholm Appeal, which had demanded this unconditional prohibition, the representative of the Soviet Union asserted that it had enraged certain circles which were looking for an opportunity to use it. Certain representatives on the First Committee had called the signatories to this appeal "traitors and fifth-columnists". He therefore listed some of the names of eminent statesmen, scientists, artists, writers and representatives of various religions who had signed the appeal. He also mentioned a communication from the International Committee of the Red Cross, addressed to States signatories to the Geneva Convention, which contained an appeal for agreement on the prohibition of atomic weapons and indiscriminate weapons in general.

The Memorandum did not deal with the underlying causes of differences of opinion concerning the armed forces to be made available to the Security Council under Article 43 of the Charter. This Article required qualitative and quantitative equality of the number and composition of armed forces to be made available by the permanent members of the Security Council. The United Kingdom and the United States were, the USSR representative stated, attempting to obtain a predominant position with regard to these armed forces so as to be able to use such forces in their own particular interests.

The USSR supported the proposal relating to the need for technical assistance provided that this assistance was so organized that no foreign monopolies could exploit it to the detriment of the economically backward countries. Technical assistance must be carried out exclusively through the United Nations, not through States whose economic policies were controlled by monopolistic organizations and corporations. Further, this assistance should not be made conditional on compliance with any demand for political, economic or military priorities for countries rendering such aid. In substance, the USSR representative said, the Secretary-General's Memorandum followed the programme laid down by the monopolies of the United States which had been exploiting technical assistance as a means of penetrating the economies of undeveloped countries.

The representative of the USSR criticized the Secretary-General's Memorandum for omitting to mention two important issues of international co-operation—the International Trade Organization and the question of discrimination in foreign trade. The USSR, he stated, had consistently pursued the policy of strengthening and broadening commercial and economic relations with all countries that wished to trade with it, whereas some countries, notably the United Kingdom and the United States, were, he maintained, pursuing a policy of discrimination more and more actively. Such discrimination hampered the cause of peace by interfering with the normal and healthy growth of trade relations between countries. He therefore considered that provisions for cessation of discriminatory practices in foreign trade "must without fail" be included in the programme for achieving peace. The USSR, he stated, would adhere to the Charter of the International Trade Organization if the Charter were amended. In its present form, however, the Charter jeopardized the economic interests of many countries and was therefore unsatisfactory.

Stating that the draft resolution submitted by the nine delegations was a "hollow, worthless document" designed to lead public opinion astray, the USSR representative recommended that the draft resolution presented by the Soviet delegation should be adopted as the basis for further work on the twenty-year programme for achieving peace.

The representatives of Canada, Chile, Colombia, Denmark, Egypt, France, Haiti, Netherlands, Pakistan, Philippines, Sweden, the United Kingdom, the United States and Uruguay, on the other hand, supported the Secretary-General's Memorandum and the nine-Power draft resolution.

They held that the Secretary-General, acting under the authority of Article 99 of the Charter, had prepared an impartial and objective document, and it was essential that the General Assembly should take official cognizance of it, so that appropriate organs of the United Nations might take into consideration those portions of it which came within their spheres. It was particularly gratifying, these representatives held, that the Secretary-General's programme, by relating the economic and social aspects of the Charter to the general political situation, had placed the current difficulties in the proper perspective.

A study of the Memorandum showed that it reflected the chief functions of the United Nations. Points 1, 2, 3 and 4 came within the competence of the Security Council; point 5 concerned

the Security Council and the General Assembly; points 6, 7, and 8 related to the activities of the Economic and Social Council; point 9 was within the competence of the Trusteeship Council; and point 10 related to the functions of, among other organs, the International Court of Justice. Thus, the Secretary-General had presented a basic review of the functions of the United Nations and their relevance to the world situation.

These representatives denied that the Secretary-General's Memorandum reflected the current policy of any exclusive group of Powers. It diverged in important details from policies now upheld by the majority and minority groups of United Nations Members. Acceptance of the points in the Memorandum would involve concessions and modifications of the points of view of all sections of the United Nations, and not only of one.

Referring to the Secretary-General's proposal regarding the problem of atomic energy, the representative of France recalled that at its previous session the General Assembly had adopted a proposal by Canada and France (299(IV)) favouring acceptance by Members of a limitation to the exercise of their right of sovereignty in the control of atomic energy. The Secretary-General's proposal was along similar lines. However, the representative of France observed, all forms of the armaments race required the same vigilance. The Secretary-General's programme therefore recalled Assembly resolution 300(IV), which recommended that the Security Council, despite the lack of unanimity of its permanent members, should continue its study of the regulation and reduction of conventional armaments. The failure of the Military Staff Committee to draw up the special agreement referred to in Article 43 was, the representative of France maintained, to be explained by an opposition which, he was sure, was temporary and not insurmountable. The representative of France also commended the Secretary-General's proposals regarding universality of membership and the programme of technical assistance.

The representatives supporting the nine-Power draft resolution, considered that it provided an opportunity for organs of the United Nations to study in detail such of the proposals as lent themselves to concrete action. The proper place to debate the points raised by the USSR concerning these proposals was in the various organs of the United Nations.

The USSR proposal was criticized for making the holding of periodic meetings of the Security Council conditional on the participation of the representative of the Chinese People's Republic. The fulfilment of one desirable objective, it was stated, should not be made dependent upon the fulfilment of another.

Commenting on this problem, the representative of the United States said that, quite apart from the opposition of his Government to any move to seat the "Chinese Communists" in any United Nations organs, the fact remained that the General Assembly now recognized the Chinese National Government as the Government of China. Should it wish to change its decision, this would not be the way to do it. Further, the General Assembly constitutionally could not determine the representation of Members in the Security Council.

Referring to the USSR proposal regarding compliance with the unanimity rule, the United States representative said that there was no need to write into a General Assembly resolution something that was already written in the Charter. Similarly, the paragraph in the USSR resolution regarding the unconditional prohibition of atomic weapons was, the United States representative said, fully covered in the resolution entitled, "Peace through Deeds" and in previous resolutions of the General Assembly. The USSR proposal on armed forces, it was stated, involved a complex set of problems which had been considered for many months by the Military Staff Committee; if the Soviet Union had a new proposal on that subject, it could be discussed in that Committee. Turning to the USSR proposals regarding technical assistance and international trade, the United States representative said that they should be considered by the Economic and Social Council and the Economic Committee of the General Assembly before they could come up in plenary session. He urged the rejection of the USSR draft resolution.

The representative of the United Kingdom stated that the USSR draft resolution was an attempt to use the Secretary-General's programme as a Soviet propaganda counter. This was evident from the way in which it dealt with the question of China's representation. The United Kingdom had recognized the Central People's Government as the only lawful Government capable of representing China in the United Nations, but could not support a resolution designed to commit the Assembly to the view that meetings of the Security Council in which the Central People's Government was not represented were unlawful. There was no truth, the United Kingdom representative stated, in the USSR representative's allegation that the Secretary-General's Memorandum had

been approved by the United Kingdom Government, among others. The Secretary-General had acted quite independently and without the knowledge of the United Kingdom Government. The best proof that the United Kingdom Government had no hand in the proposals was* the fact that there were among them "quite a number of points" on which it respectfully disagreed with the Secretary-General, although agreeing with the spirit of the proposals. Drawing attention to his delegation's amendment to the nine-Power draft resolution, the representative of the United Kingdom stated that the United Nations organs should report next year on "progress" and not "results". The investigation, he held, might become continuous and as world affairs developed and changed, new considerations might become applicable.

Towards the close of the debate, the representative of the USSR challenged the statement of the representative of the United Kingdom that the United Kingdom Government had been unaware of the contents of the proposed programme. He said that he would "not name the persons who prepared the programme, nor those of them who went to Washington to prepare it". The facts, he added, were known to the representatives who were present at that time.

Replying to this charge, the Secretary-General stated that the allegation repeatedly made by the representative of the USSR that his Memorandum was sanctioned or even drafted by the Governments of the United States, France, and the United Kingdom was false and could not be made true by repetition. It was his own conception, he asserted, and he himself had drafted it in consultation with his Assistant Secretaries-General and other principal assistants. The text which he had discussed in Moscow was precisely the same text which he had taken to Washington, London and Paris.

The draft resolutions were then put to the vote. The United Kingdom amendment (A/1535) to the nine-Power draft resolution (A/1514) was adopted by 44 votes to 7, with 5 abstentions. The nine-Power joint draft resolution, as amended, was adopted by 51 votes to 5, with 1 abstention.

The vote on the USSR draft resolution (A/-1525 & Corr.1) was taken paragraph by paragraph, and rejected by votes varying from 42 to 8, with 5 abstentions (on the paragraph dealing with periodic meetings of the Security Council) to 23 to 15, with 17 abstentions (on the paragraph relating to discrimination in trade).

The text of the resolution (494(V)) adopted by the Assembly at its 312th plenary meeting on 20 November 1950 was as follows:

The General Assembly,

Having considered the "Memorandum of points for consideration in the development of a 20-year programme for achieving peace through the United Nations" submitted by the Secretary-General,

Noting that progress has been made by the present session of the General Assembly with regard to certain of the points contained in the memorandum of the Secretary-General,

Reaffirming its constant desire that all the resources of the United Nations Charter be utilized for the development of friendly relations between nations and the achievement of universal peace,

1. Commends the Secretary-General for his initiative in preparing his memorandum and presenting it to the General Assembly;

2. Requests the appropriate organs of the United Nations to give consideration to those portions of the memorandum of the Secretary-General with which they are particularly concerned;

3. Requests these organs to inform the General Assembly at its sixth session, through the Secretary-General, of any progress achieved through such consideration.

B. THE QUESTION OF KOREA

The question of the independence of Korea had been considered by the General Assembly at its second, third and fourth sessions.[39] At its second session the Assembly in resolution 112(II) had established a Temporary Commission to assist and hasten the participation of elected Korean representatives in the consideration of the question of Korean independence, and to observe that these representatives were in fact duly elected by the Korean people. The Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR, the USSR and Yugoslavia did not take part in the vote establishing the Commission, maintaining that the Assembly's refusal at that session to permit Korean representatives to take part in its discussions of the question at a time when questions affecting the independence of their country were being discussed contravened the provisions of the Charter and the right of self-determination of peoples.

The Temporary Commission was unable to secure access into North Korea and, after consulting the Interim Committee, as authorized by the General Assembly, it observed the elections in the

[39] See Y.U.N., 1947-48, pp. 81-88, 282-84, 302-4; 1948-49, pp. 287-94.

areas of Korea south of the 38th parallel of latitude, which resulted in the establishment of the Government of the Republic of Korea. At its third session, in December 1948, the General Assembly in resolution 195(III) declared this Government a lawful government and the only such government in Korea. It recommended that Governments take this declaration into account in establishing their relations with the Government of the Republic of Korea. It also recommended the withdrawal of the occupying forces. It set up a United Nations Commission on Korea to lend its good offices to bring about the unification of Korea and the integration of all Korean security forces; the Commission was to facilitate the removal of barriers to economic, social and other friendly relations caused by the division of the country. In 1949, at its fourth session, the General Assembly in resolution 293(IV) decided to continue the Commission in being, with much the same terms of reference except that it was directed to observe and report any developments that might lead to military conflict in Korea.

Both in 1948 and 1949 the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR had maintained that the General Assembly did not have the right to take any action with regard to Korea as that matter had been covered by the Moscow Agreement and should be dealt with by the Allied Governments concerned. The establishment of the Temporary Commission, they stated, was illegal since it was in violation of international agreements. They held that the unification of Korea and the establishment of a unified democratic State should be left to the Korean people themselves.

1. Complaint of Aggression upon the Republic of Korea before the Security Council

On 25 June 1950, the United States (S/1495) informed the Secretary-General that North Korean forces had invaded the territory of the Republic of Korea at several points in the early morning of that day. Stating that this was a "breach of the peace and an act of aggression" the United States requested an immediate meeting of the Security Council to deal with the situation.

On the same day the United Nations Commission on Korea informed the Secretary-General (S/1496) that according to a statement of the Government of the Republic of Korea, attacks had been launched in strength by the North Korean forces all along the 38th parallel. The Pyongyang Radio announcement that the South Korean forces had launched an attack across the parallel during the night, the Commission stated, was declared to be entirely false by the President and Foreign Minister of the Republic of Korea in the course of a conference with the Commission's members. Stating that the situation was assuming the character of a full-scale war and might endanger international peace, the Commission suggested that the Secretary-General should consider the possibility of bringing the matter to the Security Council's attention.

a. RESOLUTION OF 25 JUNE 1950

These communications were considered by the Council at its 473rd meeting on 25 June. On the proposal of the United States, the representative of the Government of the Republic of Korea was invited to sit at the Council table during the consideration of the question. The United States representative presented a draft resolution (S/1497) which would have the Council call upon the authorities in North Korea to cease hostilities and to withdraw their armed forces to the border along the 38th parallel. It would, also, request the United Nations Commission on Korea to observe the withdrawal of the North Korean forces to the 38th parallel and to keep the Security Council informed on the execution of the resolution. The Council, it was provided, would call upon all Members of the United Nations to render every assistance to the United Nations in the carrying out of the resolution and to refrain from assisting the North Korean authorities.

The representatives of the Republic of Korea, China, France, Cuba and Ecuador urged speedy action by the Council to deal with the situation, the representatives of the Republic of Korea, China and Cuba stating that the Council was faced with an act of aggression. The representative of France stated that the matter was of particular concern to the United Nations in view of the part which the Organization had played in establishing the Republic of Korea. Support for the United States draft resolution was expressed by the representatives of the United Kingdom, France and Ecuador; and the representative of Egypt, welcoming the Council's endeavour to bring about a cessation of hostilities, stated that he might be able to support the draft resolution if certain changes were made. The United Kingdom proposed an amendment (S/1498) to request the United Nations Commission on Korea to communicate its fully considered recommendation on

the situation with the least possible delay. Following consultations between some of the representatives, various paragraphs of the United States draft resolution (S/1497) were amended (S/1499) and the revised draft resolution was adopted by the Council (S/1501) first in parts and then as a whole. The representative of Norway expressed his support of the amended resolution.

The first, second and third paragraphs and the first paragraph of the operative part were adopted by 9 votes, with 1 abstention (Yugoslavia) and one member absent (USSR);[40] the first clause of paragraph I (see below) of the operative part was adopted by 10 votes, with 1 member absent (USSR); the second clause of paragraph I of the operative part and paragraph II and III were adopted by 9 votes, with 1 abstention (Yugoslavia) and 1 member absent (USSR). The amended draft resolution as a whole was adopted by 9 votes, with 1 abstention (Yugoslavia), and 1 member absent (USSR). The resolution adopted by the Council read as follows:

The Security Council,

Recalling the finding of the General Assembly in its resolution of 21 October 1949 that the Government of the Republic of Korea is a lawfully established government "having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; and that this Government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were observed by the Temporary Commission; and that this is the only such government in Korea";

Mindful of the concern expressed by the General Assembly in its resolutions of 12 December 1948 and 21 October 1949 of the consequences which might follow unless Member States refrained from acts derogatory to the results sought to be achieved by the United Nations in bringing about the complete independence and unity of Korea; and the concern expressed that the situation described by the United Nations Commission on Korea in its report menaces the safety and well being of the Republic of Korea and of the people of Korea and might lead to open military conflict there;

Noting with grave concern the armed attack upon the Republic of Korea by forces from North Korea,

Determines that this action constitutes a breach of the peace,

I. Calls for the immediate cessation of hostilities; and calls upon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel;

II. Requests the United Nations Commission on Korea

(a) To communicate its fully considered recommendations on the situation with the least possible delay,

(b) To observe the withdrawal of the North Korean forces to the 38th parallel, and

(c) To keep the Security Council informed on the execution of this resolution;

III. Calls upon all Members to render every assistance to the United Nations in the execution of this resolution and to refrain from giving assistance to the North Korean authorities.

The representative of Yugoslavia declared that the situation was obviously of a nature to cause the gravest concern and arouse the greatest feeling of uneasiness. However, his delegation did not feel that the picture so far obtained from the various dispatches that had come in was sufficiently complete and balanced to enable the Council to assess the final and definite responsibility and guilt of either of the parties involved. Since the Council had heard the representative of the Republic of Korea, he was of the opinion that an opportunity should be granted to a representative of the Government of North Korea for a hearing. To that end, he submitted the following draft resolution (S/1500):

The Security Council,

Noting with grave concern the outbreak of hostilities in Korea, and anxious to obtain all the necessary information enabling it to pass judgment on the merits of the case,

Calls for an immediate cessation of hostilities and withdrawal of forces,

Invites the Government of North Korea to state its case before the Security Council.

The Yugoslav draft resolution was rejected by 6 votes to 1 (Yugoslavia) with 3 abstentions (Egypt, India, Norway), and 1 member absent (USSR).

b. RESOLUTION OF 27 JUNE 1950

At its 474th meeting on 27 June, the Security Council had before it three cablegrams from the United Nations Commission on Korea (S/1503, S/1505/Rev.1 & S/1507). The Commission reported that, having considered the latest reports of its military observers resulting from direct observation along the 38th parallel during the period ending 48 hours before hostilities had begun, its present view was that the authorities in North Korea were carrying out a well-planned, concerted and full-scale invasion of South Korea; and that South Korean forces had been deployed on a wholly defensive basis on all sectors of the 38th

[40] The USSR representative had withdrawn from the Council on 13 Jan. 1950, stating that he would not participate in the Council's work until "the representative of the Kuomintang group had been removed", and that the USSR would not recognize as legal any decision of the Council adopted with the participation of that representative and would not deem itself bound by such decisions. He returned to the Council on 1 Aug. 1950 when the presidency of the Council devolved upon him, according to the rule of monthly rotation.

parallel. The Commission also expressed unanimous gratification at the Security Council's resolution of 25 June. It stated, however, that it was convinced that the North Koreans would neither heed the Council's resolution nor accept the Commission's good offices, and suggested that the Council might consider calling on both parties to agree on a neutral mediator, or request Member Governments to undertake immediate mediation. It warned that in the light of military operations already in progress, the question of a cease-fire and a withdrawal of North Korean forces might prove "academic".

The representative of the United States submitted a draft resolution (S/1508/Rev.1) proposing that the Security Council note that the authorities of North Korea had not complied with the resolution of 25 June, and that urgent military measures were required to restore international peace and security. The draft resolution would also recommend that the Members of the United Nations furnish such assistance to the Republic of Korea as might be necessary to repel the armed attack and restore international peace and security in the area.

After submitting his draft resolution, the representative of the United States read the statement which the President of the United States had made on that day. This statement announced, inter alia, that, in conformity with the Council's call upon all Members of the United Nations to render every assistance to the United Nations in the execution of its resolution of 25 June he (the President of the United States) had ordered United States air and sea forces to give cover and support to South Korean troops. The President of the United States also announced in this statement that he had ordered the Seventh Fleet to prevent any attack on Formosa and had called upon the Chinese Government on Formosa to cease all air and sea operations against the mainland. Orders had also been issued, he said, to accelerate military assistance to the Philippines and to the forces of France and the Associated States in Indo-China.

The representative of Yugoslavia, stating that, unfortunately, Korea and the Korean people were victims of "spheres of influence", maintained that the Council should not, after two days fighting, abandon hope that the parties would negotiate in their own interest and in that of international peace. The Council, he said, should help the Korean people by addressing to them an even more pressing appeal to cease hostilities and by suggesting to them a procedure of mediation with the good offices of the Security Council. He therefore proposed a draft resolution (S/1509) which would have the Council renew its call for the cessation of hostilities, initiate a procedure of mediation between the parties and, to this end, invite the Government of the People's Republic of Korea to send a representative immediately to the United Nations Headquarters, with full powers to participate in the procedure of mediation.

The representatives of the Republic of Korea, France, the United Kingdom, China, Cuba, Norway and Ecuador expressed support for the United States draft resolution. They held that the situation had become even more serious since the adoption of the Council's resolution of 25 June, since the North Korean authorities had ignored this resolution and had flouted the authority of the United Nations. The representative of China stated that he was obliged to oppose the Yugoslav draft resolution since he believed that any mediatory effort on the part of the Security Council at the present stage would be useless. The representatives of Egypt and India stated that, lacking instructions from their Governments, they would be unable to participate in the voting.

In the course of their statements, the representatives of France, the United Kingdom, China, Cuba, Norway and Ecuador welcomed the declaration of the President of the United States whereby United States air and sea forces had been ordered to give the troops of the Government of the Republic of Korea cover and support.

The Council adopted the United States draft resolution by 7 votes to 1 (Yugoslavia) with 1 member absent (USSR) and 2 members (Egypt, India) not participating in the voting. It rejected the Yugoslav draft resolution (S/1509) by 7 votes to 1 (Yugoslavia) with 1 member absent (USSR) and 2 members (Egypt, India) not participating in the voting.

The resolution adopted by the Council (S/1511) read as follows:

The Security Council,

Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

Having called for an immediate cessation of hostilities, and

Having called apon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel, and

Having noted from the report of the United Nations Commission for Korea that the authorities in North Korea have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel and that urgent military measures are required to restore international peace and security, and

Having noted the appeal from the Republic of Korea to the United Nations for immediate and effective steps to secure peace and security,

Recommends that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area.

At the 475th meeting of the Council on 30 June, the representative of Egypt declared that, had he received instructions when the Council was voting on its resolution oí 27 June, he would have abstained from voting for the following two reasons: first that the conflict under consideration was in fact nothing but a new phase in the series of the divergences between the Western and Eastern blocs, divergences which threatened world peace and security; second, several cases of aggression against peoples and violations of the sovereignty and unity of territory of States Members of the United Nations had been submitted to the Security Council, which had not taken any action to end those aggressions and violations as it was then doing in the case of Korea.

The representative of India elaborated on the communication (S/1520) of the Indian Government, transmitted earlier to the Security Council, and containing India's acceptance of the 27 June resolution. That communication had stated that the decision of the Government of India did not involve any modification of its foreign policy, which was based on the promotion of world peace and the development of friendly relations with all countries. Finally the communication expressed the earnest hope of the Government of India that even at that stage it might be possible to put an end to the fighting and settle the dispute by mediation. This decision of the Government of India was welcomed by the representatives of France, the United Kingdom and China.

The representative of Ecuador read to the Council the resolution adopted by the Council of the Organization of American States on 28 June supporting the decision of the Security Council.

The United States representative informed the Council that the President of the United States had, in conformity with the Security Council resolutions, authorized the United States Air Force to conduct missions on specific military targets in North Korea wherever militarily necessary and had ordered a naval blockade of the entire Korean coast. Also, General Douglas MacArthur had been authorized to use certain supporting ground units. The President of the United States also informed the Council that the United States authorities in the Korean area had been requested to make every effort to procure the necessary facilities so that the United Nations Commission on Korea might function, in Korea, with the least possible delay.

c. COMMUNICATIONS FROM MEMBERS CONCERNING THE RESOLUTIONS OF 25 AND 27 JUNE

On 29 June the Secretary-General transmitted the Council resolution of 27 June to all Member States of the United Nations, and asked what assistance, if any, each would give to the Republic of Korea.[41] A number of communications were received, indicating the following:

GOVERNMENTS SUPPORTING THE RESOLUTION

United Kingdom (S/1515) decided to place its naval forces in Japanese waters at the disposal of the United States authorities to operate on behalf of the Security Council in support of South Korea.

Belgium (S/1519, S/1542/Rev.1) Uruguay (S/1516, S/1569) and the Dominican Republic (S/1528, S/1565), were prepared to give all the support within their power to the resolution oí 21 June.

India (S/1520) was opposed to any attempt to settle international disputes by resort to aggression and would therefore accept the resolution oí 21 June.

China (S/1521, S/1562) offered to the United Nations, in compliance with the resolution of 27 June, three divisions of troops.

New Zealand (S/1522, S/1563) had ordered two frigates of the Royal New Zealand Navy to join forces of other Governments giving effect to the resolution of 27 June.

Australia (S/1524, S/1530) decided to place Australian naval vessels in Far Eastern waters and a fighter squadron at the disposal of United States authorities on behalf of the Security Council.

Brazil (S/1525), was prepared to meet, within the means at its disposal, the responsibilities contemplated in Article 49 of the Charter.

Netherlands (S/1526, S/1570) had instructed a destroyer to join other naval forces which were operating in Korean waters to implement the recommendations of the resolution oí 21 June.

Turkey (S/1529, S/1552) was prepared to fulfil loyally its undertakings arising out of the Charter and was consequently ready to comply with any decisions taken by the Security Council on the subject.

United States (S/1531, S/1580) had ordered its air and sea forces to give the troops of the Republic of Korea cover and support and had authorized the use of certain supporting ground units. The United States Air Force had also been authorized to conduct missions on specific targets in northern Korea wherever militarily necessary; and a naval blockade of the entire Korean coast had been ordered.

Argentina (S/1533, S/1568) reiterated its resolute support of the United Nations.

El Salvador (S/1534, S/1577) resolutely supported the decisions of the Security Council and was studying closely what assistance it could render to the Republic of Korea.

[41] For assistance given to the Republic of Korea by the end of 1950, see pp. 226-28.

Mexico (S/1537, S/1592) and Venezuela (S/1535, S/1595), were prepared to co-operate within the limits of their resources to restore international peace and security.

Canada (S/1538, S/1602). Canadian naval units were to proceed to Western Pacific waters where they might be of assistance to the United Nations and the Republic of Korea.

Pakistan (S/1539) would give full support to the measures proposed in the resolution oí 21 June to stop hostilities.

Panama (S/1540, S/1577) would be glad to give effect to paragraph 3 of the resolution of 25 June.

Colombia (S/1541, S/1561) supported the measures decided upon by the Security Council.

Union of South Africa (S/1543) deplored and condemned what appeared to be clearly aggressive acts of the Government of North Korea and would give most careful consideration to any appeal to it for assistance.

Bolivia (S/1544) would comply with the resolution of 27 June.

Costa Rica (S/1544, S/1558) and Honduras (S/1536), were prepared to give assistance within their power.

Guatemala (S/1544, S/1581) agreed with measures adopted by the Security Council and would lend all possible co-operation.

Israel (S/1544, S/1553) supported the Security Council in its efforts to put an end to the breach of the peace in Korea.

Nicaragua (S/1544, S/1573) was prepared to offer assistance, including foodstuffs and raw materials, to the Republic of Korea.

Greece (S/1546, S/1578) supported the Security Council's resolutions and recommendations and had instituted an embargo on all exports to the North Korean area.

Thailand (S/1547) supported the Council's resolutions and was prepared to assist the Republic of Korea with foodstuffs.

Afghanistan (S/1589), Burma (S/1590), Iceland (S/1567), and Luxembourg (S/1549), supported the resolutions of 25 and 27 June.

Haiti (S/1550, S/1559) would co-operate fully with the United Nations.

Chile (S/1556) firmly supported the resolutions of 25 and 27 June and would contribute strategic materials to countries responsible for operations.

Peru (S/1557) was prepared to concert its action with other Members to furnish assistance.

Ecuador (S/1560) was prepared within the limits of its resources to assist in re-establishing order.

Sweden (S/1564) agreed that North Korea had committed a breach of the peace and was considering the question of rendering assistance to South Korea.

Iran (S/1567) and Ethiopia (S/1555), strongly supported the resolution oí 21 June.

Denmark (S/1572) offered medicaments to assist the United Nations efforts.

Cuba (S/1574) would adhere to United Nations decisions to promote peace and would offer assistance.

Norway (S/1576) supported the resolution of 27 June and suggested that Norwegian shipping could be used to assist the Government of South Korea.

Paraguay (S/1582) would support the measures to be taken by the United Nations to protect peace.

The Philippines (S/1584) would support the United Nations in safeguarding the integrity of the Republic of Korea and was prepared to contribute commodities and medicines.

France (S/1586) would comply with the Council's recommendations and was considering what action it could take.

Liberia (S/1597) hoped that the timely and appropriate measures taken by the Council would ensure a speedy solution.

The Governments of Lebanon (S/1585) and Syria (S/1591), in taking note of the resolution of 25 June only and affirming their desire to conform to the principles and provisions of the Charter of the United Nations, declared that they would always refrain from giving any assistance to any aggressor. Iraq supported the United Nations within the framework of the Charter (S/1593), Yemen condemned any attack against, and interference in, the affairs of any State (S/1551, S/1599). Saudi Arabia, after taking note of the resolutions of both 25 and 27 June, stated that it disapproved of aggression of any kind, supported the Council's resolution to resist any aggression, and requested the Council and the United Nations to take the necessary measures to execute their resolutions for prohibiting aggression, whether that be in the case of Korea, Palestine or any other case (S/1604).

GOVERNMENTS OPPOSING THE RESOLUTION

The USSR (S/1517, S/1579) stated that the Security Council resolution of 27 June had no legal force since it had been adopted by only six votes, the seventh being that of the "Kuomintang representative," who had no legal right to represent China. Moreover, although the United Nations Charter required the concurring votes of all five permanent members of the Council for any decision on an important matter, the above resolution had been passed in the absence of two permanent members of the Council, the USSR and China. That position was supported by Czechoslovakia (S/1523) and Poland (S/1545). In addition, Poland charged that the Government of the United Sates had begun military intervention in Korea without waiting for the consideration of the matter by the legal organs of the United Nations, thus taking unilateral action contrary to the provisions of the United Nations Charter. Only after the announcement of its decision to intervene had the United States, abusing the authority of the United Nations, endeavoured to find a legal justification of its aggression, through the approval of the United States position by the United Nations.

As regards the resolution of 7 July (see below), the USSR also found (S/1596/Rev.1) that that resolution had no legal force for the reasons mentioned above, namely its adoption by only six votes and in the absence of two permanent members of the Security Council. In addition, it was stated that the resolution was directed towards the illegal use of the United Nations flag as a cloak for the United States military operations in Korea.

The Ukrainian SSR and the Byelorussian SSR (S/1598, S/1600) stated that both the resolutions of 27 June and of 7 July had no legal force and constituted a flagrant violation of the Charter in view of the fact

ASSISTANCE OFFERED TO THE REPUBLIC OF KOREA DURING 1950

By the end of 1950, personnel, transport, commodities, supplies, funds, facilities and other assistance had been offered, as follows, to the Republic of Korea by 39 Member States of the United Nations, in accordance with the Security Council's resolution of 27 June 1950, by one non-member State and by nine organizations. The column to the right gives the U.S. dollar value of relief assistance only.

MEMBER STATES	DATE OF OFFER (1950)	ASSISTANCE OFFERED	STATUS AT END OF 1950	ESTIMATED VALUE (U. S. DOLLARS)
Argentina	5 Oct.	Canned and frozen meat for troops (offered directly to Unified Command)	Pending	
Australia	30 June	1 RAAF squadron	In action	
	28-29 July	3 naval vessels	" "	
	3 Aug.	Ground forces	" "	
	6 Oct.	Foodstuffs	Under negotiation	
	28 Nov.	Penicillin crystalline	Accepted	$ 209,250
	28 Nov.	Laundry soap, about 52 tons	"	
	14 Dec.	Distilled water, 273,350 ampoules	"	
Belgium	28 July	Air transport	**In action**	
	28 Sept.	" "	" "	
	13 Sept.	1 infantry battalion	En route	
	7 Nov.	Sugar, 400 tons	Accepted	50,000*
Bolivia	15 July	30 officers	Acceptance deferred	
Brazil	22 Sept.	Cruzeiros 50,000,000	Pending	2,700,000
Canada	12 July	3 naval vessels	In action	
	21 July	1 RCAF transport squadron	" "	
	11 Aug.	Canadian-Pacific Airlines commercial facilities	" "	
	26 Sept.	Ground forces	Arrived Korea	
Chile	30 June	Strategic materials	No specific offer received	
China	3 July	3 infantry divisions and 20 C-47 aircraft	Acceptance deferred	
	4 Oct.	Coal, 10,000 tons Rice, 1,000 tons Salt, 3,000 tons DDT, 20 tons	Shipped direct to Korea by Government of China	615,000
Colombia	27 July	General economic assistance	No specific offer received	
	16 Oct.	1 frigate (offered directly to Unified Command)	En route	
	16 Nov.	1 Battalion of infantry troops (Negotiated directly with Unified Command)	Accepted	
Costa Rica	27 July	Sea and air bases	Accepted	
		Volunteers	Acceptance deferred	
Cuba	2 Oct.	Sugar, 2,000 tons	Accepted	
		Alcohol, 10,000 gallons	Pending	259,000*
		Human plasma	"	
Denmark	5 July	Medical supplies	Accepted	
	26 Sept.	Sugar, 500 tons	"	238,000
	18 Aug.	Hospital ship Jutlandia	"	
	28 Aug.	Motor ship Bella Dan	Withdrawn	
Ecuador	1 Aug.	Medicinal substances	No specific offer received	63,000*
	13 Oct.	Rice, 500 tons	Accepted	
El Salvador	15 Aug.	Volunteers, if U.S. would train and equip	Acceptance deferred	
	15 Aug.	Economic assistance	No specific offer received	

* Tentative offer. † Tentative valuation.

MEMBER STATES	DATE OF OFFER (1950)	ASSISTANCE OFFERED	STATUS AT END OF 1950	ESTIMATED VALUE (U. S. DOLLARS)
Ethiopia	5 Aug.	$100,000 (Ethiopian)	Deposited	41,000
	2 Nov.	1 infantry contingent	Accepted	
France	19 July	1 patrol gunboat	Withdrawn	
	20 Aug.	1 infantry battalion	In action	
	9 Oct.	Medical supplies	Accepted	
	29 Dec.	Additional medical supplies	Transmitted to Unified Command	184,000†
Greece	20 July	6 Dakota transport aircraft	In action	
	1 Sept.	Ground forces	" "	
	20 Oct.	Soap, 100 tons	Accepted	
	30 Nov.	Notebooks and pencils, 25,000	Pending	
	27 Dec.	Medical supplies	Transmitted to Unified Command	385,000†
Iceland	14 Sept.	Cod liver oil, 125 tons	Accepted	45,000
India	29 July	Field ambulance unit	In action	
	4 Oct.	Jute bags, 400,000 (for transport of Thailand rice)	Accepted	169,000
	11 Oct.	Medical supplies	"	3,950
Israel	22 Aug.	Medical supplies	"	63,000
Lebanon	26 July	$50,000	Accepted, but not deposited	50,000
Liberia	17 July	Natural rubber, 10 tons	Accepted	10,000
Mexico	30 Sept.	Pulses (beans, chickpeas, etc.), value 3,000,000 pesos	"	350,000
Netherlands	5 July	1 destroyer	In action	
	8 Sept.	2 or 3 infantry companies	" "	
New Zealand	1 July	2 frigates	In action	
	26 July	1 combat unit	En route	
	6 Oct.	Dried peas, 200-500 tons	Accepted	
	20 Nov.	Milk powder, 150 tons	"	131,000
		Soap, 200 tons	"	
Nicaragua	16 Nov.	Rice, 50 tons	Pending	
	16 Dec.	Rice, 100 tons	"	24,000†
		Alcohol, 5,000 quarts	"	
Norway	18 July	Merchant ship tonnage	In action	
Pakistan	29 Aug.	Wheat, 5,000 tons	Accepted	380,000
Panama	3 Aug.	Contingent volunteers	Acceptance deferred	
		Bases for training	" "	
		Use of Merchant Marine	Accepted	
		Free use of highways	"	
Paraguay	3 Nov.	Medical supplies	Pending	10,000
Peru	21 Nov.	1,000,000 soles	Offered but not deposited	65,000
Philippines	3 Aug.	17 Sherman tanks	In Korea	
		1 tank destroyer	" "	
	10 Aug.	1 regimental combat team	In action	
	7 July	Soap, 50,000 cakes	Accepted	
	7 Sept.	Vaccines	"	
	8 Sept.	Fresh blood, 518 units	"	3,734,300
		Rice, 20,000 tons	"	
	29 Nov.	Fresh blood, 500 units	Pending	
Sweden	20 July	1 field hospital unit	In action	
Thailand	23 July	1 infantry combat team	" "	
	20 Sept.	Rice, 40,000 tons	Accepted	4,368,000
	3 Oct.	2 corvettes and Navy transport	In action	
		20 Red Cross personnel	Accepted	

†Tentativevaluation.

MEMBER STATES	DATE OF OFFER (1950)	ASSISTANCE OFFERED	STATUS AT END OF 1950	ESTIMATED VALUE (U. S. DOLLARS)
Turkey	25 July	1 infantry combat force	In action	
	29 Aug.	Vaccines and serums	Declined, owing to difficulties of transportation	
Union of South Africa	4 Aug.	1 fighter squadron	In action	
United Kingdom	26 July	Ground forces	" "	
	28 July	Naval forces	" "	
	19 Oct.	Salt, 6,000 tons	Accepted	608,000
	20 Oct.	Sulfa drugs	" "	
	22 Dec.	Yeast, 50 tons	Pending	
Uruguay	14 Sept.	$2,000,000	Accepted, but not deposited	2,140,000
	26 Oct.	Blankets, 70,000	Accepted	
Venezuela	14 Sept.	Medical supplies, blankets, soap, food	"	100,000
NON-MEMBER STATE				
Italy	27 Sept.	Field hospital unit	Accepted	
ORGANIZATIONS, ETC.				
International Labour Organisation		2 labour officers		
World Health Organization	8 Aug.	10 medical team personnel	In Korea	
	4 Sept.	3 public health and welfare advisers	In Korea	
	22 Nov.	10 medical team personnel	Pending	
International Refugee Organization	3 Aug.	Clothing and miscellaneous supplies	Accepted	180,000
	8 Aug.	Medical supplies	"	28,000†
	19 Aug.	5 medical team personnel	In Korea	
	27 Nov.	5 medical team personnel	Accepted	
United Nations International Children's Emergency Fund	27 Sept.	Blankets, 300,000	"	489,000
		Powdered milk, 150 tons	"	3,300
	28 Sept.	Medical supplies	Accepted	60,000†
		Soap, 100,000 lbs.	"	6,000†
American Friends Service Committee	16 Nov.	Used clothing, shoes, soap	Accepted	104,000
Co-operative for American Remittances to Europe (CARE)	21 Sept.	Food and clothing packages	"	100,000
	20 Nov.	Blankets, textiles, etc.	Pending	237,750
Church World Service	25 Sept.	Used clothing, miscellaneous supplies	Accepted	104,958
	6 Nov.	Vitamin tablets	"	5,500
		Used clothing	"	100,000
War Relief Services (National Catholic Welfare Conference)	17 Oct.	Used clothing, soap, etc.	"	290,749
	27 Oct.	7 medical team personnel	Declined	
	17 Nov.	Clothing, shoes, soap	Accepted	99,738
	29 Nov.	Used clothing, shoes	"	1,000,000
	7 Dec.	Used clothing, shoes	"	1,070,000
Save the Children Federation	12 Dec.	Used and new clothing	Pending	5,033
League of Red Cross Societies	11 Nov.	27 medical team personnel	Accepted	
		Tents, blankets, medical supplies and clothing	Supplied direct to Korean Red Cross under agreement with Unified Command	
Private individuals	Dec.	Cheques and cash		(less than) 100

†Tentative valuation.

that they were adopted by only six votes, the seventh having been that of the "Kuomintang representative" and in the absence of two permanent members of the Security Council, the USSR and China. Moreover, those resolutions represented direct support of United States aggression against the Korean people and were aimed at using the United Nations and its flag to cloak American military intervention in Korea.

Two cablegrams (S/1527, S/1554) bearing the signature of the Minister of Foreign Affairs at the Korean People's Democratic Republic declared that his Government did not recognize the decision of the Security Council on the Korean question as lawful in view of the fact that the said Republic had not been brought into consultation on the matter, that the decision of the Security Council had been taken without the participation of that Republic and that the representative of the USSR had been absent from the Security Council and "the representative of the great Chinese Power" had not been admitted.

The Central People's Government of the People's Republic of China stated (S/1583) that the resolution adopted by the Security Council on 27 June under the instigation and manipulation of the United States Government was in support of United States armed aggression and constituted an intervention in the internal affairs of Korea and a violation of world peace. Moreover, the resolution was obviously illegal inasmuch as it had been adopted in the absence of two permanent members of the Security Council, namely, the People's Republic of China and the USSR.

Meanwhile, the statement by the President of the United States regarding Formosa, together with the action of the United States Navy in invading the Chinese territorial waters around that area formed an act of open aggression which thoroughly violated the principle of the United Nations Charter forbidding any Member to use force against the territorial integrity or political independence of any other State. The statement concluded that despite any military steps of obstruction taken by the United States Government, the Chinese people were irrevocably determined to liberate Formosa without fail (S/1583).

In a communication dated 13 July 1950, the Permanent Representative of the USSR to the United Nations requested the Secretary-General to circulate as an official document of the Security Council the text of a statement made by the Deputy Foreign Minister of the USSR in Moscow on 4 July on the Korean question. In this statement, the Deputy Foreign Minister of the USSR declared, inter alia, that the events in Korea were the result of a provocative attack by the troops of the South Korean authorities on the frontier areas of the Korean People's Democratic Republic, and that the attack had been the outcome of a premeditated plan. He stated that the United States had resorted to open armed intervention in Korea and that the successive moves of the United States had disclosed its aggressive plans in Korea.

The United States, the statement continued, had confronted the United Nations with a fait accompli, in view of the fact that it had started its armed intervention in Korea before the convening of the Security Council on 27 June. Moreover, it was argued, the 27 June resolution of the Council was a gross violation of the Charter inasmuch as it had received six votes only, the seventh being that of "the Kuomintang representative" who unlawfully occupied China's seat in the Security Council and had been adopted in the absence of two permanent members of the Council, the USSR and China. Furthermore, the resolution had violated one of the most important principles of the United Nations, namely that of non-intervention in the domestic matters of States. This action showed, the statement of the Deputy Foreign Minister of the USSR continued, that the Council was not acting as a body which was charged with the main responsibility of the maintenance of peace, but as a tool utilized by the ruling circles of the United States for the unleashing of war. He maintained that the resolution of the Security Council constituted a hostile act against peace. If the Council valued the cause of peace, he observed, it should have attempted to reconcile the fighting sides in Korea before it adopted such a "scandalous resolution".

The real aims of American armed intervention in Korea were to deprive Korea of its national independence, to prevent the formation of a united democratic Korean State and forcibly to establish in Korea an anti-popular regime which would allow the ruling circles of the United States to convert the country into their colony and use Korean territory as a military and strategic springboard in the Far East.

Referring also to the question of Formosa and to the situation in French Indochina, he submitted that President Truman's statement of 27 June showed that the United States had gone over from a policy of preparing aggression to direct acts of aggression simultaneously in a number of countries in Asia, and had thus disregarded its obligations to the United Nations. The Koreans, he went on, had the same right to arrange, at their own discretion, their internal national affairs as the North Americans had held and exercised when they united the Northern and Southern States in a single national State.

In conclusion, the statement said, the United Nations would fulfil its obligations to maintain peace only if the Security Council demanded "the unconditional cessation of American military intervention and the immediate withdrawal of American armed forces from Korea".

d. CREATION AND OPERATION OF THE UNIFIED COMMAND

(1) Resolution of 7 July 1950

At the Council's 476th meeting on 7 July, the United Kingdom representative, calling attention to the necessity for co-ordinating the assistance which the Council's resolution of 27 June had recommended should be furnished by Members to the Republic of Korea, presented a joint French-United Kingdom draft resolution (S/-1587) providing for the creation of a unified command under the United States. In addition to its sponsors, the representatives of China, Cuba and Norway spoke in favour of the joint draft resolution, which was adopted by the Council (S/1588) by 7 votes, with 3 abstentions (Egypt, India and Yugoslavia) and 1 member absent (USSR). The resolution read as follows:

The Security Council,

Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

Having recommended that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

1. Welcomes the prompt and vigorous support which governments and peoples of the United Nations have given to its resolutions of 25 and 27 June 1950 to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area;

2. Notes that Members of the United Nations have transmitted to the United Nations offers of assistance for the Republic of Korea;

3. Recommends that all Members providing military forces and other assistance pursuant to the aforesaid Security Council resolutions make such forces and other assistance available to a unified command under the United States;

4. Requests the United States to designate the commander of such forces;

5. Authorizes the unified command at its discretion to use the United Nations flag in the course of operations against North Korean forces concurrently with the flags of the various nations participating;

6. Requests the United States to provide the Security Council with reports as appropriate on the course of action taken under the unified command.

Following the Council meeting, the Secretary-General handed to the United States representative on the Security Council the United Nations flag which had been used in Palestine. In accordance with the resolution, the United States designated General MacArthur as Commander-in-Chief of the United Nations Forces in Korea. The flag was presented to General MacArthur in Tokyo on 14 July by General J. Lawton Collins, Chief of Staff of the United States Army.

(2) First Report of the Unified Command

At the Council's 477th meeting on 25 July 1950 the United States representative communicated the text of an exchange of letters (S/1267) between the President of the Republic of Korea and the Supreme Commander of the United Nations Forces, regarding the assignment to the latter of the command authority over all military forces of the Republic of Korea during the period of the continuation of the state of hostilities. He also communicated the text of the United States Far East Command communiqué announcing the establishment of the United Nations Command (S/1629) and the text of the first report (S/-1626) to the Council by the United States Government on the course of action taken under the Unified Command.

The President expressed appreciation of the report as giving a clear account of the initial stages of the aggression launched by the North Korean army and an impression of the speed and determination with which the available forces of the United States and other Member States were thrown into the breach to uphold the principles of the United Nations. The representatives of France, the United Kingdom, Cuba, China, India and Ecuador associated themselves with his statement,[42]

e. CONSIDERATION BY THE SECURITY COUNCIL OF THE KOREAN QUESTION DURING AUGUST AND SEPTEMBER[43]

On 27 July 1950, the Permanent Representative of the USSR to the United Nations, who had been absent from the meetings of the Security Council since 13 January 1950, announced that, in accordance with the established procedure of the alphabetical rotation of the Security Council presidency each month, he was assuming the Council presidency in August. He set a meeting of the Council for 1 August.

The Security Council held fourteen meetings in August. With the exception of one meeting, that of 28 August, which was held in private, and at which the Council's report to the General Assembly was considered, the remaining thirteen meetings were devoted to the questions of Korea and

[42] For resolution adopted by the Council on 31 July concerning Korean relief, see p. 267.

[43] The United States draft resolution (S/1653) introduced at the Council's 479th meeting on 31 July is dealt with under this heading.

of Chinese representation. The Council's discussions covered the adoption of the agenda, the question of inviting representatives of Korea to participate in the debate, the inclusion of certain items on the agenda, such as "Complaint of armed invasion of Taiwan (Formosa)"[44] and the discussion of certain draft resolutions under the item "Complaint of aggression upon the Republic of Korea".

Voting on these draft resolutions did not, however, take place until September, when the Council had on its agenda two main items concerning the Korean question: "Complaint of aggression upon the Republic of Korea" and "Complaint of air-bombing of the territory of China". The last item was placed on the agenda on 31 August on the suggestion of the USSR.

These questions are being treated here under separate headings.

(1) Consideration of the Provisional Agenda

On 31 July 1950, the President of the Security Council for August, the representative of the USSR, informed the Secretary-General (S/1655) that the next meeting of the Council would have the following provisional agenda:

1. Adoption of the agenda.
2. Recognition of the representative of the Central People's Government of the People's Republic of China as the Representative of China.
3. Peaceful settlement of the Korean question.

This provisional agenda was discussed by the Council at its 480th, 481st and 482nd meetings, 1-3 August 1950.

At the 480th meeting of the Council on 1 August, the President, the representative of the USSR, ruled that "the representative of the Kuomintang group present at the Council table" was not the representative of China and, therefore, could not participate in the Council's meetings.

This ruling was challenged by the representative of the United States, supported by the representatives of the United Kingdom, France, Egypt, Cuba and Ecuador, who held that the President's ruling exceeded his authority, which only extended to questions of procedure. The representatives of India and Yugoslavia, however, said that they would vote in favour of the ruling since their Governments were in favour of the admission to the United Nations of the representatives of the Government of the People's Republic of China. The representative of India stated that since the Council framed its own rules of procedure it could depart from them if there was a compelling reason.

The President, speaking as the representative of the USSR, stated that the question of the representation of China in the United Nations was a question of observance of the Charter, and charged that the United States had blocked the normal settlement of this question. As a result, the lawful representative of the People's Republic of China, he said, had been prevented from taking part in the work of the Security Council, and China's seat had been usurped with the support of the United States by the representative of the "Kuomintang group" which had no right to represent China. With regard to his ruling, he stated that it had been made not in respect of an accredited representative of a State Member of the United Nations but in respect of the representative of a group which represented neither a State nor a nation.

The representative of Norway pointed out that the challenge had been concerned with the preliminary question whether the President had the right to rule on a question of that kind.

The representative of China stated that he represented the only Chinese Government which was based upon a Constitution, drafted and passed by the representatives of the Chinese people; he represented the only Chinese Government headed by a President elected by the representatives of the Chinese people; there was no other Government set up in China with the consent and approval of the Chinese people.

The proposal to overrule the President's ruling was adopted by 8 votes to 3 (India, USSR, Yugoslavia).

As regards the provisional agenda the United States representative proposed that the item following "Adoption of the agenda" should be "Complaint of aggression upon the Republic of Korea". It had been understood, he said, at the previous meeting that the 480th meeting would continue the discussion of the United States draft resolution (S/1653) which had then been submitted on this item.[45]

As long as aggression continued, he maintained, all other issues were secondary, and it was of the greatest importance that the efforts of the United Nations to halt aggression and restore peace in Korea should go forward without delay or diversion.

With regard to the second item on the provisional agenda, the representation of China, he

[44] See pp. 287-94.
[45] See p. 234.

felt it should be firmly established that this question was not linked with that of Korean aggression. It should not be considered under duress, but should be considered separately on its merits at another time. It should also be remembered, he said, that the Peking régime had denounced the United Nations action as armed aggression and intervention in the internal affairs of Korea; to consider the seating of a declared opponent of United Nations efforts to repel aggression would subvert the men fighting for the United Nations and would weaken its peace-making endeavours.

With regard to item 3 of the provisional agenda, the United States representative objected to its implication that the USSR was the only nation interested in a peaceful settlement of the question; the wording of the item already on the Council's agenda permitted all Council members to express their views fully and to make proposals for terminating the breach of the peace.

The President, speaking as the representative of the USSR in support of item 3 of the provisional agenda, stated that the position of his Government and delegation was that it was the duty of the Security Council to adopt immediately measures for the peaceful solution of any international conflict which constituted a threat to peace and security. He maintained that the United States on the contrary aimed at seizing Korea and extending the scope of aggressive war and did not wish, therefore, even to discuss the cessation of aggression, putting an end to armed intervention and the termination of hostilities. He charged that the United States, under the title of the agenda item "Complaint of aggression upon the Republic of Korea", was attempting to cast the blame for events in Korea on the Government of the People's Republic of Korea; but, as shown in the statement of 4 July (S/1603) of the Deputy Foreign Minister of the USSR, there had been a provocative attack of South Korean forces on the frontier areas, with the participation of United States military advisers. This attack had taken place according to a plan previously prepared by and with the knowledge and agreement of highly placed United States officials.

The USSR representative referred to the definition of aggression approved in May 1933 by a League of Nations Committee, composed of representatives of seventeen States, and said that according to this definition, the military operations of the United States against the Korean people were acts of direct armed aggression, which, he said, could not be justified by any strategic or other considerations. The war between the North and South Koreans was, he maintained, not a war between two States, but an internal conflict between two groups of the Korean people temporarily split into two camps under two separate authorities. The United Nations was debarred by the Charter from intervening in such an internal matter.

As regards the question of Chinese representation, the representative of the USSR expressed the view that the Council could function normally only if it had its full lawful membership—any decision taken without representation of the Central People's Government of the People's Republic of China would be illegal. He charged that the United States had deliberately blocked the normal settlement of the question of Chinese representation in the Security Council so as to make it impossible for the USSR to participate in its meetings. Taking advantage of the absence of these two permanent members of the Council, it had forced through the Council a series of illegal and scandalous resolutions. In this connexion, the USSR representative referred to the message sent by Mr. Nehru to Marshal Stalin and to Mr. Acheson, calling for the localization of the Korean conflict and for collaboration in its prompt and peaceful settlement by ending the impasse in the Security Council so that the representative of the People's Republic of China might take his place at the Council table. This approach had been welcomed by Marshal Stalin, who had expressed agreement with Mr. Nehru's views, but Mr. Acheson had refused to consider the proposal.

The representatives of the United Kingdom, Ecuador, France, Cuba, Norway and China in general expressed agreement with the views expressed by the representative of the United States.

The following were among the points made:

(1) The aggression on the Republic of Korea was continuing and the Council must therefore continue to deal with it. This was the most urgent matter and must, therefore, be considered first. Moreover, it was because of the question of aggression, the United Kingdom representative pointed out, that the matter had been considered by the Council, and it should, therefore, continue to be considered under this heading.

(2) The question of the representation of China should not be linked with that of the aggression on Korea. It was important to consider it, but it was not so urgent. The representatives of the United Kingdom, Norway, India and Yugoslavia spoke in favour of considering the question of the recognition of the Central People's Government of the People's Republic of China. The representative of China stated that the United Nations should not consider recognizing the fruits of aggression in China while attempting to stop aggression in Korea, and that if the Council considered this item the peoples

of the world would have doubts of its sincerity. The representative of Ecuador suggested that the question of the representation of China should be considered by the General Assembly where all Members were represented. This would eliminate the possibility of different decisions on this question by the Assembly and the Council.

(3) Generally speaking, representatives spoke against including the third item in the provisional agenda because they considered that to do so would make it appear that the United Nations had not tried to solve the Korean question by peaceful means. This was not true, as it had first called for the withdrawal of forces to the 38th parallel. It was pointed out, for example, by the representatives of Ecuador, the United Kingdom and France, that there was nothing to prevent proposals for the peaceful solution of the question from being considered under the heading of the existing agenda item. The representative of India thought that the Council should avoid any step which could be taken to indicate that any member of the Council was not in earnest in his desire for a peaceful settlement of the Korean question, and that therefore the third item should be included in the agenda.

The representative of India and those of the United Kingdom, Ecuador, France and China, were in favour of continuing discussion on the United States draft resolution. The United Kingdom representative, in reply to the USSR representative, stated that the United States draft resolution under the existing agenda item was aimed at localizing the conflict. The representative of France pointed out that it had not been the Government of the United States but the Security Council which had decided by nine affirmative votes in its resolution of 25 June that there had been an act of aggression; he opposed the provisional agenda which, he said, was opposed to that resolution and was a flagrant manoeuvre to disrupt the solidarity of the members which had supported it.

At the 482nd meeting on 3 August, the Council decided by 8 votes to 1 (USSR), with 2 abstentions (India, Yugoslavia), that the item following adoption of the agenda should be "Complaint of aggression upon the Republic of Korea". It rejected by 5 votes to 5 (China, Cuba, Ecuador, France, United States), with 1 abstention (Egypt), the proposal to include the item "Recognition of the representative of the Central People's Government of the People's Republic of China". It also rejected, by 7 votes to 3 (Egypt, India, the USSR), with 1 abstention (Yugoslavia), the proposal to include the item entitled "Peaceful settlement of the Korean question".

(2) Representation of Korea

At the 483rd meeting of the Council on 4 August, the President, speaking as the representative of the USSR, introduced a draft resolution (S/1668),[46] the first operative paragraph of which would have the Council decide:

(a) To consider if necessary, in the course of the discussion of the Korean question, to invite the representative of the People's Republic of China and also to hear representatives of the Korean people.

In introducing his draft resolution, the USSR representative stated that it was a tradition and practice established in the Security Council to invite both parties involved in the hostilities to participate in the consideration and discussion of such questions regardless of whether or not they were Members of the United Nations or whether or not they had been granted diplomatic recognition by all members of the Security Council. That practice had been followed by the Security Council in the consideration of a number of questions. Besides that, the United States draft resolution (S/1653)[47] contained a paragraph directed against the North Korean authorities. In such circumstances, it would be unfair and inadmissible for the Security Council not to give a due hearing to the accused party.

The representatives of China, the United States, the United Kingdom, Norway and India considered that the Council had already taken a decision on 25 June to invite the representative of the Republic of Korea, under which that representative had participated in the discussions during June and July, and that this decision was binding. After the representative of the Republic of Korea had been seated the question of inviting a representative of the North Korean authorities could be considered; these authorities had, however, by defying the Security Council's decision, put themselves in a state of hostility with the United Nations and, while this continued, they should not be invited to be represented at the Council table.

The President, speaking as the representative of the USSR, considered that to reject the proposal to invite both parties would imply that the Council was unwilling to assist in halting hostilities. To invite both sides in what, he stated, was a civil war would be taking the most objective and the fairest decision possible. He rejected the assertion that the North Korean authorities had refused to comply with the decisions of the United Nations, since these decisions were not legal, having been adopted with the participation of only three permanent members of the Council. He also charged that resolutions had been adopted on the basis of the one-sided vesrion given to the

[46] For voting on this resolution, see p. 236.
[47] See p. 234.

Council by the representative of the Syngman Rhee régime and of the United Nations Commission on Korea, which he termed "an obedient tool of the United States Department of State". United States pressure, he alleged, had been responsible for excluding representatives of the People's Democratic Republic of Korea from the United Nations discussions on this question since 1947, when it had prevented the hearing of these representatives by the Assembly when it was establishing the Commission.

At the 484th meeting of the Council the representative of China, on a point of order, requested that the President immediately rule on the following question: "Does the President consider it obligatory upon him to carry out the decision of the Security Council on 25 June by inviting the representative of the Republic of Korea to take his place at the Council table?"

The President stated that he was not in a position to give a ruling on the subject.

The representatives of China, the United States, Ecuador, Cuba and France held that the President was not acting in accordance with the rules of procedure.

The discussion on the seating of the representative of the Republic of Korea continued at the 484th and 485th meetings of the Council on 8 and 10 August, but no decision was taken. At the meeting on 10 August, the President stated that, as President, he was not in a position to rule on the question of the seating of the representative of the Republic of Korea. The question was also the subject of informal talks among Council members on 10 and 21 August, but no decision was reached during August.

At the 494th meeting of the Council on 1 September, the President, the representative of the United Kingdom, invited the representative of the Republic of Korea to take his seat at the Council table "in accordance with the previous decision of the Council". Mr. John M. Chang took his seat as that representative. The President's ruling was challenged by the representative of the USSR, but, on being put to the vote, was upheld by 9 votes to 1 (USSR), with 1 abstention (United Kingdom).

The USSR representative then introduced a draft resolution (S/1751) by which the Council would decide "that during the discussion of the Korean question it shall be necessary to invite and hear at its meetings the representatives of the Korean people, i.e. the representatives of North and South Korea". Before taking the vote on this draft resolution, the President ruled that if the USSR motion was put to the vote and rejected, nothing in that rejection should prejudice the right of the representative of the Republic of Korea to be present at meetings of the Council when the Korean question was discussed. This ruling was challenged by the representative of the USSR, but was upheld by 8 votes to 1 (USSR), Yugoslavia abstaining. The representative of Egypt did not participate in the vote, stating that such a matter could not be subject to a ruling by the President.

The representatives of India, Cuba, France and the United Kingdom spoke against the USSR draft resolution. The representative of India stated that the Council was considering at the present stage not a dispute but a breach of the peace and that a representative of the North Korean authorities should not be heard until hostilities had ceased and the North Korean forces had been withdrawn. The other three representatives associated themselves with these arguments and the representative of Cuba also cited the failure of the North Korean authorities to consult the United Nations Commission and to carry out the Security Council's resolutions.

Subject to the presidential ruling, the USSR proposal was next voted upon and rejected by 8 votes to 2 (USSR, Yugoslavia), with 1 member (Egypt) not participating in the vote.

(3) Resolutions Considered by the Council During August and September

Under the agenda item "Complaint of aggression upon the Republic of Korea" three draft resolutions were considered by the Security Council during August and September.

The first (S/1653) was submitted by the United States at the 479th meeting of the Council on 31 July. It read as follows:

> The Security Council,
>
> Condemns the North Korean authorities for their continued defiance of the United Nations;
>
> Calls upon all States to use their influence to prevail upon the authorities of North Korea to cease this defiance;
>
> Calls upon all States to refrain from assisting or encouraging the North Korean authorities and to refrain from action which might lead to the spread of the Korean conflict to other areas and thereby further endanger international peace and security.

The United States representative, in introducing this draft resolution, stated that not all members of the United Nations were supporting the peace-making efforts of the Organization; moral, if not material, aid was being given to the North Korean

authorities. It seemed wise to reinforce the Council's efforts to keep the conflict localized.

The second draft resolution was that submitted by the representative of the USSR on 4 August (S/1668). In addition to dealing with the question of Chinese and Korean representation (see above), it would have the Security Council decide to put an end to the hostilities in Korea and at the same time to withdraw foreign troops from Korea.

The third draft resolution (S/1679) was also submitted by the representative of the USSR, on 8 August. It read as follows:

The Security Council,

Having considered the protest of the Government of the People's Democratic Republic of Korea against the inhuman, barbarous bombing of the peaceful population and of peaceful towns and populated areas which is being carried out by the United States Air Force in Korea;

Recognizing that the bombing by the American armed forces of Korean towns and villages, involving the destruction and mass annihilation of the peaceful civilian population, is a gross violation of the universally accepted rules of international law;

Decides:

To call upon the Government of the United States of America to cease and not permit in future the bombing by the air force or by other means of towns and populated areas and also the shooting up from the air of the peaceful population of Korea;

To instruct the Secretary-General of the United Nations to bring this decision of the Security Council to the very urgent notice of the Government of the United States of America.

In this connexion the President read to the Council at the 484th meeting on 8 August a cablegram dated 7 August (S/1674) from the Ministry of Foreign Affairs of the People's Democratic Republic of Korea charging the United States with savage bombing of the civilian population of Korea and requesting the Council to take urgent steps to put an end to these actions.

In introducing this draft resolution, the representative of the USSR said that his proposal dealt with an extremely urgent matter and that the urgency of it had been proved by the telegram from the Foreign Minister of the People's Democratic Republic of Korea which he had read to the Council.

In addition to these draft resolutions, the representative of India suggested, at the 487th meeting of the Council on 14 August, the appointment by the Security Council of a committee of its non-permanent members (Cuba, Ecuador, Egypt, India, Norway and Yugoslavia) "to study all resolutions or proposals that have been or may be proposed for a peaceful and just settlement in Korea (which will, of course, include proposals for the future of Korea)", and to submit recommendations to the Council by a specified date. The Committee, according to the suggestion of the representative of India, would be free, at the appropriate time, "to hear any person it pleased". The representative of India said that if his suggestions found sufficient support, he would be prepared to move a resolution to that effect. The Security Council, he said, would, at some point, have to frame and publish its own proposals for Korea, once hostilities ceased and the North Korean authorities withdrew their forces in accordance with the Security Council's resolutions. No formal proposal was, however, made, though favourable comments on the Indian suggestion were made by the representatives of France, the United States and Yugoslavia.

The three draft resolutions were considered by the Council at its 495th to 497th meetings from 5 to 7 September 1950. Speaking on his draft resolution, the representative of the United States said that the North Korean authorities had continued their defiance of the United Nations and it was high time that the Security Council condemned that defiance. Recalling that the second paragraph called upon all States "to use their influence to prevail upon the authorities of North Korea to cease their defiance . . .," he considered that the attitude of the Soviet Union on this paragraph would be "a test of its willingness to support the peaceful endeavours of the United Nations".

The third paragraph of the draft resolution, he said, was aimed at localizing the conflict. The position of the Council and of the Member States supporting its action was clear: they wanted to isolate the conflict, repel aggression and restore peace in the area. The "ruling circle" of the Soviet Union on the other hand, he stated, seemed to have been doing its best to increase tension between the communist authorities in China and Members who were acting together to repel aggression. The representative of the United States further stated that the "United States Government had been disturbed recently by reports of substantial rail and road traffic in the area of North Korea which was adjacent to the Manchurian frontier".

He then quoted from a recent broadcast by President Truman in which the President had stated that the United States did not want the fighting in Korea to expand into a general war and that it would not spread unless communist

imperialism drew other armies and governments into the fight of the aggressors against the United Nations.

The representative of France stated that the measures recommended in the United States draft resolution were designed to put an end to North Korea's clear-cut and continued aggression and to prevent the spread of the conflict. Nothing, he stated, could be more just and more in keeping with the Council's functions.

As to the USSR draft resolution (S/1668), the representative of France considered that there was no particular reason to invite the representatives of Peking authorities. As regards the proposal to invite "representatives of the Korean people", he considered that the Council had already taken a decision. The second point of the USSR draft resolution relating to cessation of hostilities in Korea and to the withdrawal of foreign troops from that country, he held, failed to take into account the Council's resolution of 25 June and should, therefore, be disregarded.

The representative of Norway stated that by condemning the North Korean authorities the Council would only be giving official and authoritative expression to the indignation felt by all peace-loving people. He further stated that a reported attack on the United Nations naval formation in Korea necessitated a clear injunction to all States not to assist or encourage the North Korean authorities. The intemperate manner in which the USSR had denounced the Council's basic resolutions on Korea also made it desirable, he considered, that the Council's position should be reaffirmed.

Statements in support of the United States draft resolution were also made by the representatives of China, Cuba, Ecuador and Egypt. The representatives of China, Cuba and Ecuador expressed opposition to the USSR draft resolution (S/1668) which, in their opinion, would have the effect of sanctioning aggression and surrendering to the aggressor.

In reply the representative of the USSR stated that he was not at all surprised at the statement made by the representative of France, who could not be expected to support a proposal for the peaceful settlement of the Korean question at a time when French forces were being despatched to Korea.

As to the substance of the question, he considered that the main purpose of the United States proposal was not "to localize the conflict" but to conceal and justify the aggression of the United States in Korea. The United States Government, it was stated, supported by the Governments of the colonial Powers of Europe, was waging a colonial and imperialist war against the Korean people and the peoples of other countries of Asia and the Far East.

The most eloquent confirmation of the fact that the United States was waging a war, not only against North Korea, but against the entire Korean people could, it was stated, be seen in the barbarous bombardment, by the United States naval and air forces, of peaceful towns and villages both in North and South Korea.

Referring to communications received from a number of Governments and non-governmental organizations, he declared that the people of the whole world—above all those of the Soviet Union, of the People's Republic of China, of all Korea and of the people's democracies, together with other millions in France, the United Kingdom, the United States and a number of other countries in Europe, Asia and America—demanded the immediate cessation of the United States aggression in Korea and Asia, and a prompt and peaceful settlement of the Korean question. He therefore proposed the immediate cessation of military operations and the withdrawal of foreign troops from Korea. These measures alone, he considered, could guarantee an immediate peaceful settlement.

At the 496th meeting of the Council, on 6 September 1950, the United States proposal (S/1653) was put to the vote. There were 9 votes in favour, one against (USSR), and one abstention (Yugoslavia). Since the negative vote was cast by a permanent member of the Council, the draft resolution was not adopted.

At the same meeting the USSR draft resolution (S/1668) was rejected by 8 votes to 1 (USSR), with 2 abstentions (Egypt, Yugoslavia).

At the 497th meeting of the Council on 7 September, the representative of the USSR submitted new charges to the effect that armed forces of the United States had perpetrated numerous atrocities in Korea and particularly that the United States air forces, under the label of the United Nations, had been illegally and criminally bombing the peaceful civilian population of Korea and its peaceful towns and industrial centres where there were not, and had never been, any military objectives. He charged that under the pretext of fighting guerrillas, they had burned to the ground dozens of Korean villages and towns. There had been mass executions of Koreans unwilling to leave their birthplaces, their homes and properties, and to retreat with the American troops. The

purpose of bombings and shellings carried out by American naval and air forces was, it was stated, to destroy the non-military industry of Korea. Such destruction characterized the "notorious, cannibalistic and barbarian doctrine of total war", and it was aimed at the suppression of all resistance against aggression.

These bombardments constituted, in his view, a gross violation of universally recognized standards of international law, particularly of Article 25 of the Fourth Hague Convention concerning the laws and customs of war on land, and Article 1 of the Ninth Hague Convention concerning bombardment by naval forces. Those Conventions, signed in 1907, were in force today. He therefore urged the adoption of his draft resolution (S/1679), which would put an end to these bombardments.

In reply, the representative of the United States quoted a statement by the United States Secretary of State on 6 September, in which it was stressed that the activity of the United States forces in Korea had been and was directed solely at military targets of the invader, but that the communist command had compelled civilians to work at these sites, had used peaceful villages to cover its tanks and used civilian dress to disguise its soldiers. The United Nations Command, however, had exerted every effort, by use of warning leaflets and radio broadcasts, to minimize, to the fullest extent possible, damage and injury to peaceful civilians and property. Alleged violations of the Hague Conventions, he said, should be investigated by the International Red Cross. However, as appeared from a letter received by the President of the Council on 29 August from the President of the International Committee of the Red Cross, representatives of that organization had not been allowed into areas controlled by the North Korean forces, despite repeated requests.

The representatives of India and Norway considered that the USSR delegation had not presented any proof in support of the contention that air forces of the United Nations had carried out bombing raids in Korea in violation of the rules of international law. They would therefore vote against the USSR draft resolution.

The USSR draft resolution was put to the vote and rejected by 9 votes to 1 (USSR), with 1 abstention (Yugoslavia).

At the 502nd meeting of the Council on 18 September, the representative of the United States read out to the Council the fourth report (S/1796) of the United Nations Command operations in Korea, in which it was stated, among other things, that positive proof had been obtained that the Soviet Union had supplied the North Korean forces with munitions and that Chinese communists had supplied manpower. The Soviet equipment captured, it was stated, bore manufacturing dates of 1949 and 1950. It was also charged that North Koreans had, in some instances, conducted barbarous killings of captured United States soldiers.

The representative of the USSR stated that the only Soviet equipment possessed by North Korea was that sold to it by the USSR in 1948 when the USSR troops withdrew from that territory. However, he asserted, the artillery of the North Korean troops now consisted largely of the artillery and equipment lavishly supplied by the United States to its "South Korean puppet, Syngman Rhee". It had been admitted even by the United States press that the United States had lost more equipment in Korea than in the entire European campaign during the Second World War. It was not surprising, he observed, that the North Korean army was well equipped, since it had equipped itself with the booty it had captured.

The USSR representative also read out communications to the Council, dated 7 and 18 September, from the Minister of Foreign Affairs of the People's Democratic Republic of Korea (S/1778/Rev.1 & S/1800) charging the United States air forces with barbarous bombings of non-military targets and requesting the Council to take steps to put a stop to such activities. The representative of the Soviet Union also charged that the United States forces were deliberately and forcibly driving the Korean population to the south and were taking no steps to provide them with food, drink or shelter.

At the 503rd meeting on 26 September he submitted the following resolution (S/1812):

The Security Council,

Having considered the protest of the Korean People's Democratic Republic against the continued inhuman, barbarous bombings of the peaceful population and peaceful towns and inhabited centres carried out by the American Air Force in Korea, contained in the communication which the Minister for Foreign Affairs of the Korean People's Democratic Republic, Mr. Pak Hen En addressed to the Security Council on 7 September 1950 (S/1778), and also in his cablegram addressed to the Secretary-General and to the President of the Security Council, received on 18 September 1950 (S/1800),

Recognizing that the bombardment of Korean towns and villages by the American armed forces, resulting in their destruction and the mass extermination of the peaceful civilian population, is a flagrant violation of the generally accepted rules of international law,

Decides

To call upon the Government of the United States of America to cease, and henceforth forbid, the bombardment by air forces or by other means of peaceful towns and inhabited centres and also the machine-gunning from the air of the peaceful population of Korea,

To instruct the Secretary-General of the United Nations to bring this resolution of the Security Council without delay to the knowledge of the Government of the United States of America.

The USSR draft resolution was discussed at the 508th meeting on 30 September, when the USSR representative stated that it was clearly shown, not only by the communications referred to in his draft resolution but also by reports from General MacArthur's Headquarters, that the ceaseless strafing of the civilian population and the bombing by the United States air force of peaceful towns and localities in Korea were continuing. It was, he stated, the duty of the Council to take steps to put an immediate stop to those acts, which constituted a glaring violation of the Fourth and Ninth Hague Conventions of 1907.

The representative of the United States said in reply that the purpose of these charges, which the USSR had been pressing for some weeks, was to appeal to the natural abhorrence which all men felt for war and bombing, as well as to single out the United States as a special offender in order to divert attention from the fact that it was the United Nations which was engaged in action in Korea. Neither the USSR nor the North Korean authorities, it was stated, had denied the statement by the United States Secretary of State that peaceful villages were being used to cover the tanks of the invading army or that civilian dress was being used to disguise soldiers. He also referred to the letter of the President of the International Committee of the Red Cross who stated on 29 August that North Korea had denied access.

The representatives of India, France and China stated that they would vote against the USSR draft resolution for the reasons indicated in connexion with the vote on the previous USSR draft resolution (S/1679).

In a final reply, the representative of the USSR stated that the United States Air Force was acting in Korea under the cover of the United Nations flag. The real aim of the repeated reference by the United States representative to the letter of the President of the International Committee of the Red Cross was to divert attention from the activities of the United States Air Force in Korea.

At the same meeting the Council rejected the USSR draft resolution by 9 votes to 1 (USSR), with 1 abstention (Yugoslavia).

2. Special Report of the United Nations Command in Korea: Consideration by the Security Council

At the 518th meeting of the Security Council on 6 November 1950 the representative of the United States brought to the attention of the Council the text of a special report, dated 5 November (S/1884), from the United Nations Command in Korea. The report stated that in certain areas of Korea United Nations forces had been in contact with Chinese communist military units deployed for action against the forces of the United Nations Command. At the next meeting of the Council on 8 November, the representative of the Soviet Union objected to the Council considering this special report on the ground that the Council's decision establishing that command had been in violation of the Charter. Furthermore, he contended, General MacArthur's reports could not be relied upon. The history of war, it was claimed, showed that army commanders always gave a biased interpretation of events, which they considered exclusively from the points of view of their own military interests. The representative of the Soviet Union recalled, further, that as far back as 27 September, the Government of the People's Republic of China had submitted a complaint of violation of China's frontier by American troops in Korea. The Council had been prevented by the United States from taking a just and legal decision in connexion with that complaint. Since the United States delegation had then argued against discussing that communication, he said, there were no grounds for discussing now the tendentious and highly unreliable reports from an American general in Korea.

After the Council had decided to place the matter on its agenda, the representative of the USSR presented a draft resolution (S/1889) which would have the Council decide that during the discussion of the Korean question it would be necessary to invite the representative of the People's Republic of China.

While agreeing that as a matter of equity the representative of the People's Republic of China should be present during the discussion of this item, the representative of the United Kingdom nevertheless felt that the USSR draft was not appropriate.

He therefore submitted the following amendment (S/1890) to the USSR draft:

The Security Council,

Decides to invite, in accordance with rule 39 of the Rules of Procedure, a representative of the Central People's Government of the People's Republic of China

to be present during discussion by the Council of the Special Report of the United Nations Command in Korea (S/1884).

The representative of the United Kingdom felt that if this counter-draft was adopted, the Council would not be debarred in the interval, pending the arrival of a representative from Peking, from considering the item on the agenda and from taking any decision in that respect which it deemed essential.

The representative of the United States said that since the Chinese communist military units deployed against the United Nations were not merely volunteers interspersed in the North Korean army but were regular military units, the question arose as to whether the Council should invite representatives of aggressors. By their intervention the Chinese communists had, it was claimed, imposed upon the world the danger of an extension of the Korean conflict. This had been done despite assurances to them by both the United Nations and, individually, the United States. He was in favour of the Council making the objectives of United Nations action in Korea clear to the Chinese communists, but such an assurance should not imply that the Council was prepared to condone the intervention of Peking authorities in Korea. The invitation to the Central People's Government of China should not be in the form used by the Council in its efforts to adjust controversies by peaceful means. It should rather be a summons to the Peking régime to appear before the Council and to offer to the world community an explanation of the state of affairs which the Council was "forced to consider".

The representative of China stated that he opposed the proposal to extend an invitation to representatives of the Chinese communists on the grounds that the Peking régime was not Chinese in origin or character but the fruit of Soviet intervention and aggression in China, and that the matter under discussion was not a dispute.

The representative of the USSR, while emphasizing the necessity of inviting a representative of the People's Republic of China before considering the charges brought against that Government by the United States, considered that the United Kingdom amendment (S/1890) was not an amendment but a separate draft resolution. He therefore asked that the two proposals be voted on separately. He further took exception to the use, by the representative of the United States, of the word "summons" in connexion with the invitation to the representative of a sovereign State.

The representative of Yugoslavia stated that, having always considered the People's Republic of China as an interested party in the Korean question as a whole, he would vote in favour of the USSR draft resolution. If it was not adopted, he would vote in favour of the proposal submitted by the United Kingdom.

At the 520th meeting of the Council, on 8 November, the USSR draft resolution was rejected by the Council by a vote of 2 in favour (USSR, Yugoslavia) and 3 against (China, Cuba, United States), with 6 abstentions.

Before a vote was taken on the United Kingdom proposal, the representative of the USSR proposed an amendment to it which would replace the words "special report of the United Nations Command in Korea (S/1884)" by the words "the question submitted by the delegation of the United States of America (S/1886)." This amendment was rejected by 1 vote in favour (USSR) and 2 against (China, Cuba), with 8 abstentions.

The representatives of the United States, France and Ecuador explained that while they would vote in favour of the United Kingdom draft resolution (S/1890), their vote should not be construed as implying recognition by their Governments of the Central People's Government of the People's Republic of China, named in that draft resolution.

The representative of the USSR stated that he would also vote in favour of the United Kingdom draft resolution, even though his delegation did not recognize the United Nations Command and its so-called special report.

The representative of Egypt, after having stated that he would not vote against the United Kingdom proposal, also stressed that his Government's position with regard to the question of the recognition of the Government of China remained unchanged.

At the same meeting (520th), the United Kingdom draft resolution was adopted by 8 votes to 2 (China, Cuba), with one abstention (Egypt).

At the 521st meeting of the Council on 10 November, the representatives of Cuba, Ecuador, France, Norway, the United Kingdom and the United States submitted the following joint draft resolution (S/1894):

The Security Council,

Recalling its resolution of 25 June 1950, determining that the North Korean forces had committed a breach of the peace and calling upon all Members of the United Nations to refrain from giving assistance to the North Korean authorities,

Recalling the resolution adopted by the General Assembly on 7 October 1950, which sets forth the policies of the United Nations in respect to Korea,

Having noted from the special report of the United Nations Command in Korea dated 5 November 1950 that Chinese Communist military units are deployed for action against the forces of the United Nations in Korea,

Affirming that United Nations forces should not remain in any part of Korea otherwise than so far as necessary for achieving the objectives of stability throughout Korea and the establishment of a unified independent and democratic government in the sovereign State of Korea, as set forth in the resolution of the General Assembly dated 7 October 1950,

Insistent that no action be taken which might lead to the spread of the Korean conflict to other areas and thereby further endanger international peace and security,

Calls upon all States and authorities, and in particular those responsible for the action noted above, to refrain from assisting or encouraging the North Korean authorities, to prevent their nationals or individuals or units of their armed forces from giving assistance to North Korean forces and to cause the immediate withdrawal of any such nationals, individuals, or units which may presently be in Korea;

Affirms that it is the policy of the United Nations to hold the Chinese frontier with Korea inviolate and fully to protect legitimate Chinese and Korean interests in the frontier zone;

Calls attention to the grave danger which continued intervention by Chinese forces in Korea would entail for the maintenance of such a policy;

Requests the Interim Committee on Korea and the United Nations Commission for the Unification and Rehabilitation of Korea to consider urgently and to assist in the settlement of any problems relating to conditions on the Korean frontier in which States or authorities on the other side of the frontier have an interest, and suggests that the United Nations Commission for the Unification and Rehabilitation of Korea proceed to the area as soon as possible, and, pending its arrival, that it utilize the assistance of such States members of the Commission as now have representatives in the area for this purpose.

The representative of the USSR proposed that the Korean question should not be included in the agenda of the meeting because, in his opinion, the participation of the representative of the People's Republic of China was essential to the discussion of the questions referred to in the joint draft resolution. Sufficient time, he noted, should be afforded to that representative to reach Lake Success before the Council began consideration of the item.

The representative of India, while agreeing that sufficient time should be given to the Peking Government to send a representative, stated that since the draft resolution contained a declaration of policy which was aimed at lessening tension and fear, he would vote for its inclusion on the agenda. He would, however, assume that the draft resolution would not be discussed or voted upon at present.

The representative of the United Kingdom expressed a similar view.

The Council rejected, by 10 votes to 1, the proposal of the USSR not to include the item on the agenda.

At the same meeting and also at the 523rd meeting on 16 November, the representatives of France, the United Kingdom and the United States emphasized that the immediate submission of the six-Power draft resolution had become necessary because the intervention of Chinese military units in Korea had been intensified since the Council's meeting of 8 November. The immediate objective of the draft resolution, it was stated, was to prevent the development of a threatening situation which might endanger not only the restoration of peace in Korea, but the very principle of that peace in an important area of the world. The provisions of the joint draft resolution, it was maintained, should remove any fears that the territory of China was endangered in any way by the presence of the United Nations forces in Korea. Whatever its motives, the intervention must cease. The draft resolution made it clear that the United Nations sought peace, but that it was determined to prevent any assault on international peace and security.

The representative of Ecuador referred to a communication of the Peking Government (S/1898) on 11 November, declining the invitation decided upon by the Council on 8 November (S/1890). This, he said, justified the six-Power draft resolution and made its adoption indispensable.

The representative of the USSR considered that events in Korea had now clearly confirmed that aggressive circles of the United States had broken the peace in an attempt to seize not only South Korea but North Korea as well, with the purpose of transforming the country into a colony and to use its territory as a military and air base in the Far East. For those reasons, it was stated, the United States had rejected the USSR proposals for the peaceful settlement of the Korean question. He stated that the "American interventionists" had, under the cover of the United Nations flag, advanced in the direction of the Yalu and Tumin rivers and now immediately threatened the northeastern frontiers of China. Also, by seizing the Chinese island of Taiwan, the United States had invaded Chinese territory and was threatening its security. The Chinese people, he observed, had every reason to indict the United States Government for its hostile provocations and aggression against China. The mere fact that the six-Power

draft resolution was based on the tendentious and unilateral report of an American general hostile to the Chinese people was sufficient to prove that it could not be either objective or just. Moreover, the draft resolution referred to illegal resolutions of the Council and of the General Assembly and thus represented a gross violation of the Charter. Its intention was to justify and further conceal United States aggression both in Korea and against the People's Republic of China, and to secure the extension of American aggression in the Far East.

The representative of the Republic of Korea, after referring to the devastation and loss of life caused by the war in Korea, emphasized that these were the prices that the people of Korea were prepared to pay for their liberty and for the preservation of democracy in their country. He was convinced that the future security of Korea lay in full adherence to the principles of the United Nations. The Korean people, he stressed, did not seek extension beyond their borders, but would stand against invasion from whatever quarter it came. They would, moreover, lend their strength to the co-operative action of the United Nations just as the United Nations had lent its strength to Korea.

At the request of the representative of the USSR, the Council then heard part of a statement by a representative of the Ministry of Foreign Affairs of the People's Republic of China, dated 11 November (S/1902), which had been transmitted to the Secretary-General, with a covering letter dated 14 November, from the representative of the USSR. It stated that as a result of the invasion of Korea and of Chinese Taiwan by American imperialists, and of bombing raids on north-eastern China, the security of China had been imperilled. Filled with righteous indignation, the Chinese people were voluntarily helping the Korean people to repulse United States aggression. The Central People's Government of China, the statement continued, demanded, as before, a peaceful settlement of the Korean question but, if the aggression of the United States and its collaborators did not stop, the struggle against that aggression would never cease. In order to achieve a peaceful settlement of the Korean question, it was stated, it was essential above all to withdraw foreign troops from Korea. The Korean question, the statement concluded, could be solved only by the people of North and South Korea themselves.

The representative of the United States, in reply, quoted a statement made by the President of the United States on the same day, in which the President gave the assurance that the United States was supporting and acting within the limits of the United Nations policy in Korea, that it had never entertained any intention to carry hostilities into China and that it would take every honourable step to prevent any extension of the hostilities in the Far East.

At the 525th meeting of the Council on 27 November, the President proposed that the Council should consider together the items entitled "Complaint of armed invasion of Taiwan (Formosa)", and "Complaint of aggression upon the Republic of Korea."[48] He explained that the two problems were closely inter-related and further that the Security Council had invited the representatives of the People's Republic of China, then present in New York, to take part in the Council's discussion of both the questions.

The representative of the USSR objected to combining the two questions under one agenda item, because the item relating to Korea had been placed on the Council's agenda on 25 June at the request of the United States without the USSR's associating itself with its formulation. Moreover, it was stated, the invitation to the Central People's Government of the People's Republic of China confined the participation of the representatives of that Government to the discussion of the special report (S/1884) of the so-called Unified Command, which the Central People's Government did not recognize.

At the same meeting, the Council rejected the objection of the representative of the USSR by 8 votes to 1 (USSR), with 3 abstentions (Ecuador, Egypt, India).

At the 526th meeting on 28 November, the representative of the People's Republic of China took his seat at the Council table. A proposal by the USSR that the representative of the People's Republic of China should speak first was rejected by the Council by 7 votes to 1 (USSR), and 2 abstentions (India, Yugoslavia).

The representative of the United States, speaking first in the debate, stressed the fact that, while the complaint of aggression on the Republic of Korea and the complaint of armed invasion of Taiwan were two distinct matters, they were closely related aspects of the gravest question then confronting the world. That question, he stated, was whether there would be peace or war in the Far East. The facts of the situation in Korea, he

[48] Although the two questions were considered by the Council simultaneously they are treated separately for convenience of reference. See pp. 287-94, 221—38.

said, were that Chinese communist forces totalling more than 200,000 were engaged in North Korea, in what the United States Government believed to be aggression.

The United States representative then reviewed past Chinese-American relations, stressing the aid and assistance given by the United States to China in the economic, political and cultural fields. Referring to the Korean problem, the representative of the United States put the following questions to the representative of the People's Republic of China:

> What was the number of Chinese communist troops who had entered Korea, their organization and composition? How had supplies been organized, dispatched across the frontier and distributed? What motives had led the Peking Government to ignore the reiterated statements of the United Nations and of the United States Government that there were no designs on Chinese territory or legitimate interests? What were the interests of the Peking Government in Korea? Was the Peking Government ready to respond to the central paragraph of the six-Power draft resolution (S/1894), calling upon all States and authorities to refrain from assisting or encouraging the North Korean authorities? That proposal, the representative of the United States commented, represented the conscience of the world. Would the Peking authorities heed the judgment of the United Nations, or would they defy the Organization, thus further endangering peace and security?

With regard to the complaint of violation of the Chinese territorial air,[49] he recalled the United States proposal for a commission of investigation, which had been vetoed by the USSR. He stated that despite the subsequent intervention of Chinese communists, the Unified Command had maintained its instructions strictly prohibiting United Nations aircraft crossing the Korean frontier.

Referring to the question of Formosa, he emphasized that the Government of China, which was recognized by the United States Government and by a majority of the Members of United Nations, was in effective control of the island. The representative of that Government had clearly repudiated the charge of United States aggression against Formosa. Recalling the statements of the President of the United States on 27 August and the letter dated 21 September from the United States Secretary of State to the Secretary-General, he reaffirmed that the sole mission of the United States Fleet was to prevent any attack from the mainland on Formosa or vice versa.

The representative of the Central People's Government of the People's Republic of China stated, inter alia, that because of the fact that the item "Complaint of aggression upon the Republic of Korea" was not in conformity with the wording proposed by his Government, he would not participate in the discussion of that item. His statement was therefore largely concerned with the question of Taiwan.[50]

The representative of the People's Republic of China, however, charged that from 27 August to 10 November 1950, military aircraft of the United States in Korea had violated the air space of China ninety times, bombing its peaceful cities, towns and villages. Now, he said, the United States forces of aggression were approaching China's north-eastern frontier. Only a river separated the two countries geographically, and the security of the People's Republic of China was gravely endangered. The Chinese people, he said, could not afford to stand idly by in the face of this serious situation. They were volunteering in great numbers to go to the aid of the Korean people. Resistance to the United States aggression, it was maintained, was based on self-evident principles of justice and reason. In making Japan its main war base in the Far East, launching armed aggression against Korea and Taiwan, carrying out active intervention against Vietnam and tightening its control over other countries in Asia, the United States Government, he stated, was systematically building up a military encirclement of the People's Republic of China for a further attack upon that country and to stir up a third world war. The American imperialists, he said, claimed that the United States "defence line" must be pushed to the Yalu River, to the Strait of Taiwan, and to the border regions between China and Vietnam, or the United States would have no security. But, he said, in no sense could it be maintained that the Korean people's struggle for liberation, or the exercise of sovereignty by the People's Republic of China over its own territory of Taiwan, or the volunteering of the Chinese people to resist the United States and aid Korea, or the struggle for national independence of the Vietnam Democratic Republic, affected the security of the United States in North America, 5,000 miles away.

The fact was that the civil war in Korea was created by the United States, and was designed solely to furnish a pretext for launching armed aggression against Korea and against China's territory, Taiwan, and for tightening its control in Vietnam and in the Philippines. Clearly, in carrying out aggression simultaneously against Korea

[49] See pp. 283-87.

[50] For summary of the statement of the representative of the People's Republic of China on Taiwan, see under "Complaint of armed invasion of Taiwan (Formosa)".

and Taiwan under the pretext of the Korean civil war, which was of its own making, the United States Government had vastly extended the scale of the Korean war. It was the United States armed aggression, launched under the pretext of "maintaining security in the Pacific", that had shattered the security of that area.

The representative of the People's Republic of China therefore submitted a draft resolution (S/1921) which, inter alia, would have the Council demand the withdrawal from Korea of the armed forces of the United States and all the other countries and leave the people of North and South Korea to settle the domestic affairs of Korea themselves, so that a peaceful solution of the Korean question might be achieved.[51]

At the 528th meeting of the Council on 29 November, the representative of the Republic of Korea referred to the neighbourly and peaceful relations that had existed between the Korean and Chinese peoples through the centuries. He pointed out that while the friendship between the two peoples was still deep, the Chinese communists had attacked the Republic of Korea, and therefore were guilty of wilful and unprovoked aggression and of endangering the peace of the world. He demanded the withdrawal from Korea of Chinese communist troops immediately, and the release of the military and civilian prisoners of war.

The representative of France urged the Council to adopt the six-Power draft resolution without delay. He considered that the intentions of the People's Republic of China, which had been obscure at the time when the draft resolution was submitted, had now been expressed in unambiguous terms. This, however, had not changed the legal facts of the matter or the intentions of the United Nations. That the situation had become worse, the representative of France stated, made it only more desirable for the United Nations to tell the Peking authorities that their action in Korea was contrary to the Charter, to which they themselves had intended to appeal, and their fears, if they had any, were baseless.

The representative of the United States said that the representative of the People's Republic of China had misrepresented the whole history of the Korean question in his attempts to depict the United States as an aggressor; he had remained silent on the labours of the United Nations Commission on Korea and its report on the aggression of North Korea. While declining to answer directly the questions put to him, the representative of the People's Republic of China had answered them either by his silence, when he was bound by circumstances to speak, or by his statements, revealing the attitude of an aggressor.

The representative of the USSR considered that the representative of the United States had falsified the whole history of the Korean question in order to conceal and justify its aggression against North Korea. In violation of the agreements made during the war and of Article 107 of the Charter, the United States Government, counting on the support of the Anglo-American bloc in the United Nations had, in 1947, dragged the Korean question into the United Nations, and had "forced" the Organization to adopt a number of illegal resolutions favourable to the United States and its South Korean puppets.

In ordering the United States armed forces to invade Korea on 27 June, several hours before the Security Council was convened, the United States, it was asserted, had brought the whole world face to face with the fait accompli of its aggression in Korea. It had afterwards forced the Council to adopt an illegal resolution for the purpose of concealing the aggression already committed. Moreover, the representative of the USSR argued, the decisions taken by the Council on 25 and 27 June had been adopted by an illegally constituted Council, i.e. without the participation of two permanent members, the USSR and China. The United States Government's attempt to convince public opinion that the war against the Korean people was being waged by "United Nations Troops under United Nations Command" was a falsification of facts.[52]

The President, speaking as the representative of Yugoslavia, stated that in view of the fact that his Government's guiding principle in international affairs had always been to wage a continuing struggle against aggression, he would vote in favour of the six-Power draft resolution as a whole, because he considered that it was aimed at localizing the conflict. He would, however, abstain in the vote on the preamble. The representative of India indicated that he would be unable to participate in the vote as he had not yet received final instructions from his Government.

The six-Power draft resolution was put to the vote and received 9 votes in favour and 1 against

[51] For fuller details of the draft resolution, see under the heading "Complaint of armed invasion of Taiwan (Formosa)", p. 293.

[52] For the statement of the representative of the USSR dealing with Taiwan, see pp. 293—94.

(USSR), with 1 member (India) not participating. Since the negative vote. was cast by a permanent member, the draft resolution was not adopted.

3. Intervention of the Central People's Government of the People's Republic of China in Korea

In a telegram (A/1618) dated 4 December 1950, the representatives of Cuba, Ecuador, France, Norway, the United Kingdom and the United States requested the inclusion of the item "Intervention of the Central People's Government of the People's Republic of China in Korea" in the agenda of the fifth session of the General Assembly. In an explanatory memorandum (A/1621) submitted on 5 December, they stated that armed forces of the Central People's Government of the People's Republic of China were conducting military operations against the United Nations forces in Korea, and recalled that the draft resolution submitted jointly by their delegations in the Security Council[53] with a view to dealing with this question had failed of adoption because of the negative vote of one of the permanent members, the USSR. Under those circumstances, they believed that the Assembly should consider the problem urgently, with a view to making appropriate recommendations.

The General Assembly, at its 319th plenary meeting on 6 December 1950, decided, on the recommendation of the General Committee made at its 74th meeting on 5 December, to include this item in its agenda and to refer it to the First Committee for consideration and report.

Representatives of Czechoslovakia and the USSR in the General Committee, and representatives of Czechoslovakia, Poland and the USSR in the General Assembly, had expressed opposition to the inclusion of the item, on the grounds that there was no Chinese armed intervention in Korea (there were only Chinese volunteer forces in Korea who were hastening "to succour their brethren"), and that the real intervention in Korea was being carried out by the armed forces of the United States and its allies.

a. DISCUSSION IN THE FIRST COMMITTEE

The First Committee, during 1950, considered the question at its 409th to 417th meetings, 7-9 and 11-13 December.

At its 409th meeting on 7 December, the First Committee, by 42 votes to 5, with 4 abstentions, adopted a French motion that priority should be given to the consideration of the item.[54] Representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR opposed the French motion. At the same meeting, the Committee, by 48 votes to 5, with 4 abstentions, adopted a motion, presented by the United States, that the representative of the Republic of Korea should be invited to participate in the discussions. Representatives of Poland and the USSR spoke in opposition to the United States motion. They maintained that there was no such thing as intervention on the part of the Central People's Government of the People's Republic of China, and, accordingly, it would be wrong to invite South Korean representatives to participate in the discussion, particularly because they would be unable to give an objective picture.

The following draft resolutions were submitted during 1950:

(a) Joint draft resolution (A/C.1/638), submitted at the 409th meeting on 7 December, by Cuba, Ecuador, France, Norway, the United Kingdom and the United States, which, after recalling the Security Council resolution of 25 June 1950 and the General Assembly resolution of 7 October 1950, and noting that armed forces of the Central People's Government of the People's Republic of China were conducting military operations against the United Nations forces in Korea, called upon all States and authorities, inter alia, to prevent their nationals or individuals or units of their armed forces from giving assistance to the North Korean forces and to cause immediate withdrawal of such nationals or units; affirmed that it was the policy of the United Nations to hold the Chinese frontier with Korea inviolate and fully to protect legitimate Chinese and Korean interests in the frontier zone; and requested the United Nations Commission for the Unification and Rehabilitation of Korea to assist in the settlement of any problems relating to conditions on the Korean frontier.

(b) Draft resolution (A/C.1/640), submitted by the USSR at the 412th meeting on 9 December, which recommended that all foreign troops should be withdrawn immediately from Korea and that the decision on the Korean question should be entrusted to the Korean people themselves.

(c) Joint draft resolution (A/C.1/641), submitted at the 415th meeting on 12 December, by Afghanistan, Burma, Egypt, India, Indonesia, Iran, Iraq, Lebanon, Pakistan, Philippines, Saudi Arabia, Syria and Yemen, requesting the President of the General Assembly to constitute a group of three persons, including himself, to determine the basis on which a satisfactory cease-fire in Korea could be arranged and to make recommendations to the General Assembly as soon as possible.

(d) Joint draft resolution (A/C.1/642), submitted at the 415th meeting on 12 December by the same countries with the exception of the Philippines, which, con-

[53] See pp. 239-40.
[54] See pp. 296-97.

sidering that the situation in the Far East was likely to endanger the maintenance of world peace and security, recommended the establishment of a committee to meet as soon as possible and make recommendations for the peaceful settlement of existing issues.

On 5 December 1950, Afghanistan, Burma, Egypt, India, Indonesia, Iran, Iraq, Lebanon, Pakistan, the Philippines, Saudi Arabia, Syria and Yemen appealed to the North Korean authorities and the Central People's Government of the People's Republic of China immediately to declare that it was not their intention that any forces under their control should cross to the south of the 38th parallel of latitude. Such a declaration, the appeal stated, would give time for considering what further steps were necessary to resolve the conflict in the Far East and thus help to avert the danger of another world war. No action was taken on this appeal.

At the 410th meeting of the First Committee on 8 December, the first report (A/C.1/639) of the United Nations Commission for the Unification and Rehabilitation of Korea, dated 7 December 1950, was read. In connexion with Chinese communist intervention in Korea, it stated that, on the basis of existing evidence, the Commission had concluded that Chinese forces in great strength were attacking the United Nations forces in North Korea and that they formed part of the armed forces of the People's Republic of China. Definitely identified forces totalled 231,000 men, drawn from eight armies and comprising 26 divisions. One responsible estimate placed the total number as high as 400,000. Interrogation of prisoners showed that they were not volunteers in any possible meaning of the term. The Commission also called attention to a large-scale exodus of refugees fleeing southwards from North Korea, with one estimate placing the number in the west coast areas alone as high as 500,000. This number would increase, the Commission believed, as additional territory became threatened by invading forces from the north.

Representatives of Belgium, Cuba, the Dominican Republic, Ecuador, France, Greece, the Netherlands, Peru, the Philippines, the United Kingdom, the United States, Uruguay and Venezuela, among others, spoke in support of the joint six-Power draft resolution (A/C.1/638). They considered that since the veto of the USSR had prevented the Security Council from undertaking effective action to restore peace, it was now the General Assembly's duty to exercise its powers under Article 11 of the Charter and under the resolutions adopted under the title "Uniting for Peace".[55] Only after this question had been settled could other matters relating to the peace and security of Asia be dealt with.

It was argued that just when the armed forces of the United Nations had almost completed the task entrusted to them as a result of the aggression committed by the North Koreans, whose vanquished armies had disappeared into the frozen wastes of North Korea, in their stead there had appeared a vast contingent of the communist armies of China, which nobody had attacked and with which everyone wished to have peaceful relations. By crossing the border into North Korea, those armies had not only invaded Korea but they had attacked the forces of the United Nations and had brought about a state of undeclared war against the Organization, against each Member State and particularly those which had supported General Assembly resolution 376(V)[56] of 7 October 1950. Such action, they said, constituted a breach of international security; it also imperilled world peace. It was not only the prestige of the democratic nations of the world which was involved, but also the prestige and the moral authority of the United Nations itself that represented all peace-loving nations. Not only were the solemn declarations of principle and the plans for moral and material progress—so carefully worked out to bring peace to all human beings—in danger, but the world was at present on the edge of a catastrophe of immeasurable consequences.

It was maintained that facts had demolished the fiction that Chinese communist forces in Korea consisted of volunteers. Clearly, they constituted a centrally directed army, organized and equipped for war by a great national effort. The Chinese communist formations that had entered Korea were listed. With respect to this point, the representative of the United States indicated that the arguments advanced by spokesmen of Communist China and the USSR seeking to justify the actions of so-called volunteers, should cause grave concern. The representative of the USSR, he asserted, had stated that the Chinese communists had gone to succour their brethren and that there was therefore no reason for protesting. That had been an attempt to justify organizing a communist uprising, sending in troops called volunteers and then claiming that the international community had no right to aid the victim. That new doctrine, the United States representative said, was a dangerous

[55] See pp. 193-95.
[56] See pp. 265-66.

weapon in the arsenal of Soviet imperialism and should be rejected.

The supporters of the six-Power draft remarked that it was evident that the Chinese communist Government had intervened illegally in Korea, thereby violating its international obligations as a neutral State, and that it had openly violated the Charter of the United Nations, challenging the repeated requests of the United Nations to refrain from giving assistance to the North Korean aggressors. It had also attacked, and was continuing to attack, the United Nations forces in Korea, which were there in fulfilment of the almost unanimous agreement of the States Members of the Organization. At the very moment when the United Nations was about to begin the rehabilitation of an independent and free Korea and bring relief to it, the Organization was faced with an entirely new war.

It was argued that the six-Power draft resolution showed moderation and restraint, and that it provided the parties directly concerned, and the United Nations as a whole, with a firm and sound basis for further negotiation.

Representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR spoke against the six-Power draft resolution (A/C.1/638) and in support of the USSR draft (A/C.1/640). They rejected the views put forth by the supporters of the six-Power draft, considering them to be based on a complete distortion of the facts. Those views, the five representatives stated, had already been refuted by them during the debates in the Security Council and in the General Assembly on the Korean question.

The representatives of the above five Powers argued that it required great audacity so to distort incontrovertible facts as to represent the hostilities in Korea as a struggle between the armed forces of the People's Republic of China and United Nations forces which were championing the right of a small country to independence and defending the principles of the United Nations. Nevertheless, the authors of the six-Power draft resolution had contended that the armed forces of the United Nations had entered Korea for the purpose of repelling an attack by the North Koreans directed against a Government established by virtue of a United Nations decision. And now, a new fabrication was being added: that of an attack by Chinese troops on the United Nations.

The six-Power draft, offered as a justification of the intervention of American troops in Korea, was completely contrary to the purposes and principles of the United Nations, they declared. In point of fact, it was at the instigation of General MacArthur and the United States Government that the Government of South Korea had launched its aggression. That Government had remained in office only because of the support of the American armed forces controlling the country. Fascism, illegality, terrorism and violence had marked a régime which had endeavoured to stifle the aspirations of the Korean people. It was ridiculous to represent the aid given to that régime as a defence of democracy and freedom.

An act of aggression committed? in defiance of the requirements of the Charter had been supported and assisted under the flag of the United Nations, they continued. It was hypocrisy, therefore, to speak of relieving the sufferings of the Korean people, when those who had organized the attack had shattered and devastated the country with American bombs.

The American representative, they said, had spoken as if the Chinese were at the frontier of the United States, instead of American troops having advanced toward the Chinese frontier with hostile designs. Long before the outbreak of hostilities, American bombs supplied to Chiang Kai-shek had helped to massacre Chinese citizens; now American aircraft were bombing Manchuria. When the American forces, after crossing the 38th parallel, had continued to advance northward in large numbers, the Chinese people had become indignant and alarmed in the face of the dangerous situation created by the American intervention.

China, they maintained, had learned through bitter experience the necessity of taking legitimate measures of defence. The participation of Chinese volunteers in the national struggle of Korea under Korean leadership was in full conformity with the provisions of international law. There was no occasion for surprise, they said, that volunteers should be organized, equipped and trained for modern war. Volunteers had the same arms as the armies whose ranks they came to swell; they did not necessarily constitute undisciplined hordes, but were, on the contrary, organized in units under a Commander-in-Chief.

The sponsors of the six-Power draft were resorting to slander of the People's Republic of China and were asserting that such large-scale action implied a nation-wide effort, because they underestimated the strength of a people which in twenty years had rid itself of warlords, monopolies and American colonists. The new Government,

which had the support of the whole of China, had proved itself capable of defending the political independence and territorial integrity of China and the dignity of its people. The list of alleged Chinese units, quoted in the so-called United Nations Commission's report, they continued, had no foundation in fact.

The real intervention, the representatives of the five Powers reiterated, had been from the side of the United States, and the purpose of the six-Power draft resolution was to divert the attention of the world from United States aggression against Korea and China. The aim of the USSR draft resolution, on the other hand, they added, was to make an effective contribution to the strengthening of peace, and to end the intervention of the United States and of certain other countries which were taking advantage of the United Nations.

The representative of China declared that the communist forces fighting in Korea were regular units of the Fourth Field Army of the Peking régime. The volunteers comprised only those engaged in clerical work, propaganda, first-aid and, to a minor degree, transportation in the rear areas. Such volunteers numbered less than 2,000. The Chinese people, he affirmed, firmly believed that the surest guarantee of the inviolability of their frontier between Korea and Manchuria lay in the existence of a free and united Korea, since an independent Korea could not possibly conduct an imperialistic invasion of China. There was also no suspicion or fear of United States imperialism among the Chinese people, he added. After more than a century of Sino-American relations, the United States had not acquired a single inch of Chinese territory. On the contrary, it had always provided relief for the Chinese people whenever they had been struck by any natural disaster. Therefore, all those contentions and fears were un-Chinese and concocted, and the intervention in Korea was being carried out by a totally un-Chinese régime. It was only when China once again became Chinese that peace and security would reign in the Far East.

The representative of the Republic of Korea asserted that the opponent to the unification of Korea had been the USSR, although it had signed the Potsdam Declaration providing for the establishment of a united and independent Korea. The USSR, he said, had refused to permit general elections in North at the same time as in South Korea, and in this way had succeeded in establishing and maintaining in North Korea a puppet régime which it contended was a government elected by the people, although the elections in North Korea had been carried out under police pressure, and United Nations observers had not been able to see that they were properly held.

Also, by contesting the legality of the Government of the Republic of Korea and by recognizing the authorities of North Korea, the USSR had confused international public opinion and enabled concealment of the responsibility for the aggression unleashed by the troops of North Korea against the Republic. Communist propaganda had alleged that the struggle was a civil war, but that lie had been disproved by the capture of enormous quantities of Soviet arms.

More recently it had been stated that the intervening Chinese troops were composed solely of volunteers. The United Nations had pretended to ignore that lie in order to enable the Chinese communists to withdraw their troops and consequently to avoid an extension of the conflict. Moreover, the free peoples of the world had given the Peking authorities assurances with respect to the territorial integrity of China. All those efforts at appeasement, however, seemed to have been in vain. The Korean conflict was not a limited war, he asserted; on the contrary, the United Nations was confronted by an aggressor set on a policy of extermination. The United Nations had already condemned the aggression committed by the North Koreans against the Republic of Korea. Now the Chinese communists had committed a similar act of aggression. He declared that the free world was well aware that the new aggression was a product of the USSR in origin, direction and execution.

Now that the Republic of Korea was once again in grave danger, it again appealed to the Members of the United Nations to adopt a policy of resistance to aggression, in order to prevent further aggression in other parts of the world.

After introducing the joint thirteen-Power draft resolution (A/C.1/641) at the 415th meeting, the representative of India informed the First Committee of the substance of the conversations he had held with the representatives of the Peking Government. His main object throughout those conversations, he explained, had been to understand the point of view of the Peking Government in respect to the Korean conflict and other connected issues and then to make certain proposals for the consideration of the Peking Government. Towards the end of those talks, he had asked General Wu Hsiu-chuan, representative of the Central People's Government of the People's Republic of China, whether it was correct to suppose that the Peking Government did not want a war

with the United Nations or with the United States. General Wu Hsiu-chuan replied that most certainly his Government did not want a war but that the forces of the United States and the United Nations were carrying on military operations near the Chinese border and thus a war had been forced upon the Chinese people.

The representative of India felt that, since China had been ravaged by wars of one kind or another for almost a generation, it was understandable that the people of China should not want another war and would welcome a spell of peace. At the same time, the ordeals through which they had passed had made them unduly suspicious and apprehensive. In fact, China seemed to be moving towards a Monroe Doctrine of its own. Nevertheless the United Nations had, for the moment, an assurance that the Peking Government desired a peaceful settlement. Since that was also the wish of the members of the First Committee, India, together with other countries, had introduced the joint thirteen-Power draft resolution.

He then pointed out that the joint draft did not impose an immediate cease-fire order. He had felt that in order to obtain an effective cease-fire order, it would be better to have first an exploratory proposal as embodied in the joint draft. According to that proposal, the President of the General Assembly, together with two other persons of his choice, would consult both High Commands or their representatives and report back to the General Assembly on the most suitable basis for a cease-fire. On the basis of that report, the General Assembly could recommend the actual cease-fire.

At the same meeting, the representative of India introduced the joint twelve-Power draft resolution (A/C.1/642), but moved, however, that priority of discussion should be given to the joint thirteen-Power draft because of its urgency and importance.

In the discussion that followed, representatives of Australia, Syria and Yugoslavia supported the Indian motion with respect to priority. Representatives of Poland and the USSR opposed the Indian motion. They argued that the First Committee was engaged in a general debate and several draft resolutions had been presented. It was unusual, they stated, to select one for special attention, and there had already been too many changes in the order of their discussions.

The Indian motion was adopted by 48 votes to 5, with 4 abstentions.

The representatives of Brazil, Canada, Egypt, France, India, Iran, Israel, Mexico, the Netherlands, Norway, Pakistan, the Philippines, Syria, Turkey, the United Kingdom, the United States and Yemen, among others, spoke in support of the thirteen-Power draft resolution. They stressed the fact that an end to the fighting was a necessary prerequisite for an eventual peaceful settlement in Korea. If the negotiations which the draft resolution sought to promote proved that a victory for aggression was the price that had to be paid for a cessation of hostilities, the proposal would come to nothing, but that possibility should not prevent the United Nations from making the attempt. They contended, however, that it was essential that the first step—namely, the cease-fire and the protection of the United Nations forces and of the Korean population—should be concluded before other matters, such as political issues, were taken up.

The representative of Chile declared that the world knew that the aggression committed by the armies of the Peking Government was merely further evidence of the expansionist strategy of the USSR, and that the final fulfilment of a cease-fire order would depend on the extent to which it suited the purposes of the USSR. The possibility of achieving an honourable and acceptable solution, he stated, depended on the action of the Soviet Union. The United Nations, he asserted, was not dealing with a mere local conflict. The present international situation, of which Korea was merely one aspect, led to one conclusion, the conclusion that, as far as peace was concerned, there were no isolated problems; peace was one and indivisible. With those reservations and with some scepticism, the delegation of Chile, he added, would support the thirteen-Power draft. It would do so also because of the respect which the sponsoring delegations deserved, and especially out of respect for the pacifying efforts of India and for the humanitarian aims which motivated it, and also because of the guarantee implicit in a group over which the President of the General Assembly would preside.

The representative of Greece was of the opinion that the word "conflict" in the thirteen-Power draft was inappropriate, for it implied the idea of antagonism of ideas or interests rather than that of an armed struggle. The United Nations forces in Korea, he said, had no such conflict with the Governments of North Korea or of the People's Republic of China. They were there solely to fight against aggression. It would have been preferable to substitute the word "fight" or "struggle" for the

word "conflict". He went on to state that Greece would nevertheless vote for the draft, it being understood that his observations would be taken into account. Although he had some doubts concerning the possibility of a sincere implementation of the proposal, he wholeheartedly wished that the efforts to bring the hostilities to an end would succeed.

Viewing the thirteen-Power draft with misgivings, the representative of China declared that in ordinary circumstances, it would be natural for the United Nations to begin with a cease-fire order. That had already been done by the Security Council on 25 June 1950,[57] but the aggressor had paid no attention and the Security Council had then taken police action. Now it was proposed that the General Assembly should seek a cease-fire, but that was equivalent to asking the police to stop at the same time as the gangster. It was doubtful, he observed, whether such a procedure was right, or would enhance the prestige or usefulness of the United Nations.

The representative of the USSR noted three factors that had surrounded the drafting and elaboration of the thirteen-Power draft resolution. The first factor was the defeat of the American interventionist troops in Korea as a result of the struggle of the Korean people and of their Chinese friends. The second was the presence among the sponsors of the thirteen-Power draft resolution of the Philippines, which was not included among the sponsors of the twelve-Power draft resolution. The reason for his absence was obviously that the first draft resolution had been to the liking of the United States, and the Philippine representative had been forced to exert much effort in order to impose such a draft resolution on the other sponsors. Turning to the third factor, he considered that the objective sought by the United Kingdom and United States representatives boiled down to the narrow aim of obtaining a cease-fire but not peace and security in the Far East. Thus, the proposal for a cease-fire constituted merely a hypocritical and camouflaged attempt to obtain a breathing spell before embarking upon further military action and would redound solely to the benefit of the United States and the United Kingdom.

The representative of the USSR added that a correct solution of the Korean question could be found only through the evacuation of all foreign troops from Korea, which would enable the Korean people to settle all issues and problems relating to the future of their country. The USSR draft resolution (A/C.1/640), he said, laid down the basic conditions for a peaceful settlement of the Korean question and for the restoration of peace and security in the Far East.

These views were shared by the representatives of Czechoslovakia and Poland, who also spoke in favour of the USSR draft and in opposition to the thirteen-Power draft.

The thirteen-Power draft resolution (A/C.1/641) was put to the vote at the 417th meeting of the First Committee on 13 December and was adopted by 51 votes to 5, with 1 abstention.

b. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The interim report (A/1717) of the First Committee, containing the text of the draft resolution adopted, was considered by the General Assembly at its 324th plenary meeting on 14 December. The Committee, in its report, stated that it would submit its final report when it concluded its consideration of the other draft resolutions.

The Assembly decided not to discuss the item, but before the Committee's draft resolution was voted on, several representatives gave explanations of how they would vote.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR announced their intention of voting against the Committee draft. They protested against the consideration by the General Assembly of the draft submitted to it by the First Committee before that Committee examined and took a decision on the USSR draft resolution and the other resolutions which had been submitted to it on the same question. They considered that procedure to be irregular. The real purpose of the measures proposed in the Committee draft, they contended, was to enable the United States armed forces in Korea to continue their armed aggression. A proper solution of the Korean question, they argued, was possible only if foreign troops were withdrawn from Korea and the Koreans themselves were allowed to settle the questions which concerned their country. Such a solution, they added, was advocated in the USSR draft resolution.

The representative of Egypt stated that the Committee draft resolution, in fact, asked that ways and means should be sought to determine the basis on which a satisfactory cessation of hostilities in Korea could be arranged and that

[57] See p. 222.

recommendations should be made to the General Assembly as soon as possible. He wondered how anybody, in logic or in fairness, could challenge such a stand. He went on to state that the United Nations had so far failed to agree upon many matters which weighed heavily upon the economy, the social life and the prosperity of the human race. The United Nations, he observed, would continue so to fail to agree as long as there were people who were hesitating to work for peace in the world. He hoped that those who were hesitating to subscribe to the attempt by the United Nations to work for peace would soon realize that there was growing and building up, spiralling and snowballing, a world opinion which determinedly refused to be driven to war. The United Nations must pay heed to that public opinion. It must not continue to think of people as cattle which can be driven to war and to massacre at the whim of those who cannot think of anything else. The United Nations, he added, should insist on acting, and should act for peace, and then the time would come when everyone would know who was building up and who was tearing down the structure of human civilization.

The Committee draft resolution was adopted by a roll-call vote of 52 to 5, with 1 abstention. At the 325th meeting, also held on 14 December, the representatives of Nicaragua and Peru explained that, owing to unavoidable circumstances, they had been absent during the vote, but that they supported the resolution. The text of the resolution adopted (384(V)) read as follows:

The General Assembly,

Viewing with grave concern the situation in the Far East,

Anxious that immediate steps should be taken to prevent the conflict in Korea spreading to other areas and to put an end to the fighting in Korea itself, and that further steps should then be taken for a peaceful settlement of existing issues in accordance with the Purposes and Principles of the United Nations,

Requests the President of the General Assembly to constitute a group of three persons, including himself, to determine the basis on which a satisfactory cease-fire in Korea can be arranged and to make recommendations to, the General Assembly as soon as possible.

The President of the General Assembly, at the 325th plenary meeting on 14 December, announced the constitution of a Group on Cease Fire in Korea consisting of the following persons: L. B. Pearson (Canada), Sir Benegal Rau (India) and N. Entezam (Iran).

c. REPORT OF GROUP ON CEASE FIRE IN KOREA

The Group on Cease Fire in Korea met almost immediately after it was constituted by the President of the Assembly. It decided to associate the Secretary-General of the United Nations with its work. A report (A/C.1/643) on its work, dated 2 January 1951, was submitted to the General Assembly. The report stated that, as a first step, it had consulted the representatives of the Unified Command as to what they considered to be a satisfactory basis for a cease-fire. The suggestions which had emerged from this consultation could be summarized as follows:

(1) All Governments and authorities concerned, including the Central People's Government of the People's Republic of China and the North Korean authorities, should order and enforce a cessation of all acts of armed force in Korea. The cease-fire should apply to all of Korea.

(2) There should be established across Korea a demilitarized area of approximately twenty miles in depth, with the southern limit following generally the line of the 38th parallel.

(3) The cease-fire should be supervised by a United Nations commission, whose members and designated observers should have free and unlimited access to the whole of Korea.

(4) All Governments and authorities should cease promptly the introduction into Korea of any reinforcement or replacement units or personnel, including volunteers, and additional war equipment and material.

(5) Appropriate provision should be made in the cease-fire arrangements in regard to steps to ensure the security of the forces, the movement of refugees, and the handling of other specific problems arising out of the cease-fire.

(6) The General Assembly should be asked to confirm the cease-fire arrangements, which should continue in effect until superseded by further steps approved by the United Nations.

The Group then had attempted to consult the Central People's Government of the People's Republic of China and, for that purpose, had sent a message to that Government's representative in New York and repeated it by cable to the Minister for Foreign Affairs in Peking. The message stressed that, in the interests of stopping the fighting in Korea and of facilitating a just settlement of the issues there in accordance with the principles of the Charter, the Group was prepared to discuss cease-fire arrangements with the Government of the People's Republic of China or its representatives either in New York or elsewhere, as would be mutually convenient.

On 16 December, the Group requested the Central People's Government to instruct its representative in New York to stay there and to discuss with the Group the possibility of arranging a cease-fire. In its reply, on 21 December, the Government of the People's Republic of China had recalled that its representative had neither participated in or agreed to the adoption of the

General Assembly resolution establishing the Group. The Central People's Government had repeatedly declared that it would regard as illegal and null and void all resolutions on major problems, especially regarding Asia, which might be adopted by the United Nations without the participation and approval of duly appointed representatives of the People's Republic of China. After the Security Council had unreasonably voted against the question "Complaint of armed invasion of Taiwan (Formosa)" raised by the Government of the People's Republic of China, that Government had instructed its representatives to remain in New York for participation in the discussion of the question "Complaint by the Union of Soviet Socialist Republics regarding aggression against China by the United States of America". However, he had still not been given the opportunity to speak. Under those circumstances, the Central People's Government deemed that there was no further necessity for its representatives to remain in New York.

On 19 December, acting on a recommendation from the sponsors of the twelve-Power draft resolution, the Group had sent another message to the Minister for Foreign Affairs of the People's Republic of China, which was intended to remove any possible misunderstandings which might have arisen out of the separation of the twelve-Power draft resolution from the thirteen-Power resolution adopted by the Assembly on 14 December. The message stressed that the Group's clear understanding and also that of the twelve Asian sponsors was that, once a cease-fire arrangement had been achieved, the negotiations envisaged in the twelve-Power draft resolution should be proceeded with at once, and that the Government of the People's Republic of China should be included in the Negotiating Committee referred to in that draft resolution.

On 23 December, the President of the General Assembly, in his capacity as such, had received from the Minister for Foreign Affairs of the People's Republic of China the text of a statement issued by the Government in Peking on 22 December, in which it was noted that that Government, from the very beginning of hostilities in Korea, had stood for the peaceful settlement and localization of the Korean problem. However, the United States Government had not only rejected the proposals made by his Government and by the USSR for the peaceful settlement of the problem, but had rejected negotiations on the question. The statement then reiterated the basic views on the problems involved, as set forth in the Security Council by the representative of the People's Republic of China and in that organ, as well as in the General Assembly, by the representative of the USSR. In conclusion, the statement held that if the Asian and Arab nations wished to achieve genuine peace, they must free themselves from United States pressure, no longer make use of the Group on Cease Fire and give up the idea of achieving a cease-fire first and negotiations afterwards. The Central People's Government of the People's Republic of China insisted that, as a basis for negotiating a peaceful settlement of the Korean problem, all foreign troops must be withdrawn from the peninsula, Korea's domestic affairs must be settled by the Korean people themselves, the American aggression forces must be withdrawn from Taiwan and the representative of the People's Republic of China must obtain a legitimate status in the United Nations.

The Group concluded its report by stating that, in those circumstances, it regretted that it had been unable to pursue the discussion of a satisfactory cease-fire arrangement and, therefore, felt that it could not usefully make any recommendation in regard to a cease-fire for the time being.[58]

4. Report of the United Nations Commission on Korea

Pursuant to General Assembly resolution 293-(IV)[59] of 21 October 1949, the United Nations Commission on Korea transmitted to the fifth regular session of the Assembly a report (A/1350) of its activities covering the period from 15 December 1949 to 4 September 1950.

a. FACTS OF AGGRESSION

The Commission, in Part One of its report, declared that on Sunday, 25 June 1950, at 1:30 P.M. (Korean time), it was officially informed by the Foreign Minister of the Republic of Korea that the territory of the Republic had been invaded early that morning by the armed forces of the North Korean authorities, and was still under attack all along the 38th parallel of latitude. At 5 P.M. the same day, the Commission's field observers reported that Northern armed forces had that morning taken the Southern defences completely by surprise in a well-mounted attack all along the 38th parallel. The strategic plan of the

[58] The report was considered by the First Committee at meetings held on 3, 5 and 8 Jan. 1951.

[59] See Y.U.N., 1948-49, pp. 293-4.

Northern forces appeared to be to draw off Southern defensive reserves by launching heavy attacks on the east and west, and then to make the main attack through the centre along the shortest route to Seoul.

The Commission immediately drew the attention of the Secretary-General to the situation, suggesting that he might consider the possibility of bringing the matter to the notice of the Security Council.

It then approved the text of a broadcast to be made by the Chairman to North Korea, in which the Commission deplored the tragic outbreak of military conflict on a large scale in Korea. The Commission appealed for an immediate cessation of hostilities.

The Commission mentioned that in a radio broadcast delivered at 9:20 A.M. on 26 June 1950, General Kim Il Sung (of North Korea) reiterated the North Korean claim first heard the previous afternoon at 1:20 P.M. that South Korea, having rejected every Northern proposal for peaceful unification, had crowned its iniquity by launching an invasion force across the parallel in the section of Haeju, thus precipitating North Korean counter-attacks for which South Korea would have to assume the consequences.

The Commission asserted that the events taking place in Korea did not break out on 25 June as the result of a provocative attack by the troops of the Republic of Korea, much less as the result of the launching of an invasion force across the parallel by the Republic of Korea, as had been alleged. The Commission, having had free access to all areas in South Korea, had been at all times aware of the military situation in the South. Particularly regarding the period immediately preceding the invasion, the Commission stated that it had before it the report of a team of its field observers who had left Seoul on 9 June, and after completing trips along the 38th parallel, returned to Seoul on the evening of 23 June, a few hours before the invasion. The observers reported that they had been impressed during their tour by the fact that the South Korean Army was organized entirely for defence. They had noted that in all sectors it was disposed in depth; that armour, air support and heavy artillery were absent; that there were visible no military or other supplies necessary for a large-scale attack, and that they had encountered no concentrations of transport.

On the basis of the observers' report and of its knowledge of the general military situation, the Commission was unanimously of the opinion that no offensive could possibly have been launched across the parallel by the Republic of Korea on 25 June 1950. The Commission went on to report that the invasion launched by the North Korean forces on 25 June could not have been the result of a decision taken suddenly in order to repel a mere border attack or in retaliation for such an attack. Such an invasion, involving amphibious landings and the use of considerable numbers of troops carefully trained for aggressive action and, in relation to the area, of great quantities of weapons and other war material, presupposed a "long premeditated, well prepared and well timed plan of aggression". The subsequent steady advance of the North Korean forces, the Commission observed, supplied further evidence, if further evidence was needed, of the extensive nature of the planning and preparation for the aggression.

It was the considered opinion of the Commission that this planning and preparation were deliberate, and an essential part of the policy of the North Korean authorities. The objective of this policy was to secure by force what could not be gained by any other means. In furtherance of this policy, the North Korean authorities, on 25 June 1950, "initiated a war of aggression, without provocation and without warning".

The act of aggression by the North Korean authorities, the Commission reported, was preceded by sustained efforts to undermine and weaken the Republic of Korea. It was part of the plan of the North Korean authorities to encompass by these efforts the downfall of the Republic or, failing that, so to enfeeble the Government that it could not long resist their ultimate onslaught. While an invading force adequate for their purpose was being trained and equipped, everything was done by the North Korean authorities to spread confusion and discontent in South Korea. They endeavoured to foster and promote conditions favourable to a general upheaval. In furtherance of their policy of aggression, it was necessary to exclude from North Korea any kind of international observation. It was part of their plan of aggression to spread inflammatory propaganda calculated to create dissension in South Korea, to give aid to armed bands sent to invade South Korea after having been formed and trained on North Korean territory, and to incite the population of South Korea to side with and support these guerrilla bands. It was also part of their policy to maintain a state of tension along the 38th parallel and to create confusion in the minds of the South Korean population on the eve of the aggression by false offers of unification by peaceful means.

b. KOREA PRIOR TO ACT OF AGGRESSION

In its survey of the situation in Korea prior to the act of aggression, the Commission, in Part Two of its report, explained its own task and the attitudes toward it. The Republic of Korea, it said, continued to regard the Commission as an important symbol of the United Nations interest in Korea and looked upon it for assistance in solving many of Korea's problems. The North Korean authorities, on the other hand, were hostile toward the Commission.

With respect to the question of unification, the Commission called attention to the fact that this question remained the fundamental objective towards which it should work. Consequently, on 7 February 1950 it established a Sub-Committee which decided to approach its task: (1) by hearing the views of leading personalities in Korea in regard to the removal of existing barriers to economic, social and other friendly intercourse and in regard to the question of unification of Korea, and (2) by informing the people of both South and North Korea by means of broadcasts of the objects and aims of the Commission, with particular emphasis on the question of unification.

Between 10 February and 10 April 1950, the Sub-Committee heard the Prime Minister, Minister of Foreign Affairs, Minister of Finance, Minister of Commerce and Industry, the Chairman of the National Assembly, the Chief of the Mission in Korea of the United States Economic Co-operation Administration (ECA) and other leading figures.

The Commission noted that no constructive views were advanced, during the Sub-Committee's hearings, on ways and means to remove barriers to economic, social and other friendly intercourse. The division along the 38th parallel had hardened with the passage of time, making more difficult the finding of a solution to this basic Korean problem.

The Commission authorized a series of radio broadcasts and, in the course of these, extended the hand of friendship and co-operation to the North Korean authorities and offered to visit North Korea whenever facilities were made available. Nothing tangible resulted, and the Sub-Committee suspended its activities. A watch, however, was kept on developments, and information was collected on two specific lines of approach that had been raised from the Commission side during the series of hearings. The first concerned the possibility of utilizing the humanitarian offices of the International Red Cross to promote contacts between members of the same family divided between the two zones and faced with personal tragedy. The second involved the establishment of an international trading organization on the 38th parallel to promote the resumption of trade across the parallel.

In early June, while the Commission was collating the reports of its election observation teams, Radio Pyongyang gave wide publicity to an article in the North Korean Press calling for an intensification of measures aimed at unifying the country. On 5 June 1950, the Central Committee of the Democratic Front for the Attainment of Unification of the Fatherland announced that agreement had been reached on a fundamental policy for expediting the peaceful unification of Korea on the basis of proposals arising out of the above article. This was followed on 7 June by the broadcasting of an appeal outlining a detailed programme for unification. Broadcasts on the following days invited the representatives of almost all political parties and social organizations in the South to appear on 10 June at Yohyon station, just north of the parallel, to receive copies of the appeal. Included in the list of those invited was the United Nations Commission on Korea.

The Commission appointed its Acting Deputy Principal Secretary as its representative to meet the three representatives from the Democratic Front for the Attainment of Unification of the Fatherland, who would be waiting above the parallel to deliver the appeal. The Commission's representative was authorized to receive a copy of the appeal and to attempt, at the same time, to transmit to the Northern representatives copies of its previous broadcasts to North Korea. These, however, were not accepted by the Northern representatives on the grounds that they were mere agents and were without authority to enter into any discussions or accept any documents.

On 11 June, Radio Pyongyang announced that the three emissaries had been directed to cross the 38th parallel and proceed to Seoul in order to deliver copies to the designated organizations. As soon as the three emissaries crossed the parallel they were placed under detention, and efforts were made to induce them to accept the point of view of the Republic of Korea. This step of detaining "envoys of peace" touched off a violent chain of denunciation by Radio Pyongyang.

The Commission reported that arrangements for the unification drive from Radio Pyongyang were still continuing on the eve of the invasion.

The Commission went on to report that the Republic of Korea's programme for developing

its shaky economy was directly dependent upon the assistance of the United States Economic Co-operation Administration. The Republic, it said, was faced with excessive defence expenditures, deficiencies in plants, shortages of raw materials and consumer goods, serious inflation and general nervousness about the future. It had begun, though belatedly, to grapple with these difficulties through the medium of a careful economic stabilization programme, and the future appeared rather brighter on the eve of the invasion.

The building of security forces, the Commission pointed out, absorbed energies and resources which were urgently needed to develop politically the new form of democratic representative government and carry out the economic and social programme necessary to nourish and keep healthy the infant State.

Up to the end of May 1950, the Executive and the Legislature were continually engaged in a bitter struggle for the recognition by the other of what each deemed its proper power and authority. The Executive, the Commission said, possessed an advantage in that it already controlled the administration, and the Legislature felt that the Executive tended to ignore it in the transaction of day-to-day business. The Legislature, not willing to be thus ignored, and resentful of the treatment meted out to it by the Executive, tried again and again to assert its right of control. It had become clear, long before the act of aggression occurred, that the Legislature would not rest content until its relationship with the Executive was satisfactorily adjusted.

New general elections, the first to be conducted by the Government of the Republic of Korea, were due to take place before 31 May 1950, the date when the mandate of the first National Assembly would expire. Early in 1950, the Commission disclosed, considerable prominence was given to the question of the date on which these elections would be held, and it soon became evident that the Executive and the National Assembly were at odds on this issue. The Executive felt that an election campaign would prevent the National Assembly from approving a difficult budget for the fiscal year beginning 1 April 1950. The President at one time suggested postponement of elections to November. The National Assembly denied the President's right to postpone elections and insisted that elections should be held in accordance with the Constitution and the fundamental principles of democracy.

The Commission, viewing with some apprehension the situation that was developing, took the opportunity on 2 April 1950 of informing the Executive that it viewed with concern a postponement of the elections until November, which would leave the Republic of Korea from June until November without a fully representative government. The Commission stated also that such postponement might lead to internal dissension. On 3 April 1950 the United States Government also pointed out that United States aid, both military and economic, to the Republic of Korea had been predicated upon the existence and growth of democratic institutions within the Republic; that free popular elections in accordance with the Constitution and other basic laws of the Republic were the foundation of these democratic institutions, and that it was desirable for elections to be held as scheduled and provided for by the basic laws of the Republic. The President finally fixed 30 May as the date for the election.

The Commission was invited by the Republic of Korea to observe the general elections. Teams were organized by the Commission to cover the whole of South Korea. They were charged with studying the election law and regulations and their application, the organization and arrangements for the elections, the balloting and the subsequent counting of ballots and the declaration of the results. The teams were also to examine the attitude of the authorities, the platforms and activities of political parties and organizations and the reaction of the people to the elections. They were further to study the nature and extent of freedom of expression and of assembly, freedom from intimidation, violence and threats of violence, and undue interference with or by voters, candidates and political parties and groups.

The Commission arrived at the following general conclusions regarding the elections of 30 May 1950:

(a) Very considerable enthusiasm was everywhere shown by the electorate. A high percentage, almost 90 per cent, cast their votes.

(b) The electoral law and regulations were adequate and generally enforced. The organization of the elections and the work of the various election committees were commendable, and the electoral machinery functioned well.

(c) The secrecy of the ballot was respected.

(d) The lack of a developed party system and discipline led to an excessive number of candidates and made the choice of the voters needlessly difficult.

(e) As no clearly defined party programmes were placed before the electorate, votes were cast for individual candidates on their personal rather than on their party merits. In fact, a party label was regarded as a disadvantage.

(f) No undue pressure was exerted to influence the vote in favour of a particular candidate.

(g) There was certain concrete evidence of interference by the authorities with candidates and their election campaigns. This interference, in the main, was carried out by local police. Some candidates who were under arrest were actually elected, and the voters seemed to react against police interference by supporting those candidates with whom the police had interfered.

The safeguarding of its national security, the Commission reported, was a constant anxiety for the Republic of Korea. A first concern of the new Government in 1948 was the establishment of a national defence force. By 1950 the training and equipping of an army of 100,000 men had progressed far enough to give the Government a reasonable measure of confidence in its ability, with the assistance of a large police force of 50,000 men, to maintain law and order, and to withstand any attack from the North not supported by an outside Power.

In late 1949 and the first part of 1950, the Government committed its forces to a prolonged campaign to stamp out internal disorder caused by guerrillas trained in North Korea. The employment of more and better trained troops made possible tighter control of guerrilla infiltration across the parallel, and quicker action against raids in the interior. The successes of the army gained for it increased co-operation from the farmers. Thus, two months before the act of aggression, the Commission explained, the Republic of Korea was relatively free of guerrillas and seemed capable of remaining so. A reassignment of South Korean forces had become possible, and the police were transferred to the work of mopping up while most of the army was freed for its primary task of preparing to function as a national defence force.

An important and contentious phase of the Government's security campaign, the Commission said, was based on the National Security Act, promulgated in November 1948 and amended on 1 December 1949. This Act, in effect, outlawed the South Korea Labour (communist) Party. From the outset, the National Security Act was strictly enforced. During 1949, a total of 46,373 cases were handled in the Republic and 118,621 persons arrested. In the first four months of 1950, a total of 32,018 persons were arrested. It was reported to the Commission that some of these arrests involved violation of constitutional liberties and even brutal treatment and torture. During the election campaign of April-May 1950, the Act was frequently invoked, and some candidates, their managers and supporters were arrested for what seemed mere exercise of the constitutional right of criticism of the Administration.

The Commission reported that at various times members of the National Assembly strongly criticized these police methods. On occasions when instances were quoted, the Government undertook to investigate and give redress should the charges be proved. Moreover, frequent directives forbidding torture and directing compliance with constitutional guarantees under threat of severe penalty were issued by the Director of National Police, the Chief of the Seoul Police, the Minister of Home Affairs, the Minister of Justice and the Prime Minister, as well as by the President. While these directives implicitly admitted the existence of the alleged practices, they also showed that the Government was sensitive to the pressure of public opinion and was taking steps to improve an administration of justice still suffering from the legacy of Japanese police methods.

In its report, the Commission noted that information from the best available sources in the Republic of Korea indicated an increasing awareness, during the first half of 1950, of a growing disparity between the strength of the forces of the Republic and those of the North Korean authorities. In January 1950 the Chief of Staff of the Republic informed the Commission that, according to intelligence sources, the total strength of the North Korean Army was approximately 175,000 men, about 20,000 of these being Korean Communists from China. In the following month, he stated, the North Korean forces possessed more powerful and more numerous artillery and other weapons than did the army of the Republic of Korea. These included 130 tanks, 60 armoured cars and 102 planes. These increases in weapons, especially with regard to the number of planes which had recently gone up from 60 to 102, he attributed to a growing volume of aid from the USSR.

The army of the Republic of Korea, on the other hand, at this time consisted of about 100,000 men, organized into eight infantry divisions. These divisions were not equipped for offensive combat. The army had a few armoured cars but no tanks, and only one battalion of obsolete 105-mm. howitzers per division and anti-tank guns not exceeding 57 mm. in calibre. No air force existed.

The Chief of the United States Korean Military Advisory Group disagreed with the Republican estimates and considered that the approximate 100,000 strength of the army of the Republic of Korea was at least equal to, if not superior to, that of the North Korean Army. He agreed, however, as to the quality and quantity of armaments.

On 10 May 1950, the Defence Minister of the Republic of Korea stated at a conference in Seoul with representatives of the foreign Press that North Korean troops were moving in force towards the 38th parallel and that there was imminent danger of invasion from the North. He said that the North Korean Army had grown to 183,000 trained men supported by a large number of planes, 173 tanks and 32 naval vessels. About 25,000 Koreans who had previously fought in the Chinese Communist Army had been incorporated in the Northern forces.

The attention of the Commission was drawn to this statement, and a hearing was arranged at which information on the seriousness of the danger and the degree of imminence of the invasion, as envisaged by the Defence Minister, was obtained from the Acting Deputy Chief of Staff and the Chief of Intelligence of the Korean Army.

Following the hearing, members of the Commission informally heard two officers from the staff of the Chief of the United States Korean Military Advisory Group, who substantially confirmed the information given by the Korean military authorities, modifying only to a small extent some of the figures quoted for the strength of the North Korean forces, and recognizing the growing disparity between the forces of the North and those of the South. They did not, however, agree on the imminence of any danger, and again expressed confidence in the ability of the Army of the Republic to handle the forces of the Northern régime in case of attack.

c. ANALYSIS AND CONCLUSIONS

After dealing with its functions since the aggression, in the third part of its report, the Commission went on to analyse the issues involved and to give its conclusions. The analysis and conclusions, reproduced as given in Part Four of the Commission's report, were as follows:

The invasion of the territory of the Republic of Korea by the armed forces of the North Korean authorities, which began on 25 June 1950, was an act of aggression initiated without warning and without provocation, in execution of a carefully prepared plan.

This plan of aggression, it is now clear, was an essential part of the policy of the North Korean authorities, the object of which was to secure control over the whole of Korea. If control could not be gained by peaceful means, it would be achieved by overthrowing the Republic of Korea, either by undermining it from within or, should that prove ineffective, by resorting to direct aggression. As the methods used for undermining the Republic from within proved unsuccessful, the North Korean authorities launched an invasion of the territory of the Republic of Korea.

The origin of the conflict is to be found in the artificial division of Korea and in the failure, in 1945, of the occupying Powers to reach agreement on the method to be used for giving independence to Korea. This failure was not due to anything inherent in the attitude of the people of Korea themselves, but was a reflection of those wider and more fundamental differences of outlook and policy which have become so marked a feature of the international scene.

This artificial division was consolidated by the exclusion from North Korea of the United Nations Temporary Commission, which had been charged by the General Assembly to observe the holding of elections on a democratic basis in the whole of Korea. In the circumstances, it was decided to hold such elections in South Korea alone.

Had internationally-supervised elections been allowed to take place in the whole of Korea, and had a unified and independent Korea thereby come into existence, the present conflict could never have arisen.

The Korean people, one in race, language and culture, fervently desire to live in a unified and independent Korea. Unification can be the only aim regarding Korea. It did, however, appear to the Commission, before the aggression took place, that unification through negotiation was unlikely to be achieved if such negotiation involved the holding of internationally-supervised elections on a democratic basis in the whole of Korea. Experience suggested that the North Korean authorities would never agree to such elections.

It was hoped that, at some stage, it might be possible to break down the economic and social barriers between the two political entities as a step toward unification. That too proved illusory, as the North Korean authorities persisted in their policy of aiming at the overthrow of the Republic of Korea.

After the consolidation of the division of Korea, propaganda and hostile activities on the part of the North Korean authorities accentuated tension which, in turn, stiffened the attitude of the Government and people of the Republic of Korea, and even further prejudiced such possibility of unification by negotiation as might have remained. Notwithstanding the continued efforts of the Commission, it appeared on the eve of the aggression that the Korean peninsula would remain divided indefinitely, or at. least until international tension had slackened.

The necessity to safeguard the stability and security of the Republic of Korea from the threat from the North gradually became a controlling factor in all the major activities of the administration of the Republic, and absorbed energies and resources which were needed to develop the new form of representative government and to carry out the economic and social reconstruction programme.

The first two years of the new National Assembly reflected clearly the difficulties which it would be normal to expect in a body dealing with a new and unfamiliar political structure. It had become clear, long before the act of aggression occurred, that the Legislature was making good progress in its efforts to exert parliamentary control over all departments of government, and would not rest content until its relations with the Executive had been satisfactorily adjusted. The growing civic responsibility shown by the Legislature augured well for the future of representative government in Korea.

At the elections of 30 May 1950, the people showed very considerable enthusiasm, and the electoral machin-

ery functioned well. Among the cases of interference with candidates which occurred, some were explainable in the light of the stringent precautions which the Government found it necessary to take in order to safeguard the stability and security of the State against the threat from the North. Although there appeared to be little justification for interference in some other cases, the results of the elections, in which many candidates critical of the Administration were returned, showed that the voters were in fact able to exercise their democratic freedom of choice among candidates, and had cast their votes accordingly. The results also showed popular support of the Republic, and a determination to improve the Administration by constitutional means.

The division of Korea added to the economic difficulties that had arisen at the end of the Japanese domination, and made it most difficult for the Republic of Korea to become self-supporting. Funds which might have been expended for the execution of the social and economic programme of the Republic were consumed by heavy defence expenditures. Nevertheless, when the aggression occurred, substantial progress was being made with that programme.

Serious problems of reconstruction and rehabilitation, particularly the grave refugee problem, already confront the country. To these problems will be added problems of greater magnitude when the military conflict comes to an end. It will be quite beyond the capacity of the country to provide from its own resources means for rehabilitation. A healthy and viable democracy in Korea cannot come into being unless very considerable aid and assistance are provided from outside Korea.

Finally, as the division of the country and the resulting antagonisms were artificial, the Commission believes that, when the conditions under which they arose disappear, it will be possible for the Korean people of both North and South to come again together, to live in peace and to build the strong foundations of a free, democratic Korea.

5. The Problem of the Independence of Korea

a. CONSIDERATION BY THE FIRST COMMITTEE

The report (A/1350) of the United Nations Commission on Korea was placed on the agenda of the fifth regular session of the General Assembly. The report was referred by the Assembly to its First Committee which considered it at its 345th to 353rd meetings, held on 30 September, 2, 3 and 4 October.

At the Committee's 345th meeting on 30 September, two draft resolutions concerning the hearing of Korean representatives were submitted; the first (A/C.1/562) by the USSR, the second (A/C.1/563) by China. The USSR draft proposed to invite representatives of both North and South Korea to participate in the Committee's discussion of the question. The Chinese draft proposed to invite a representative of the Republic of Korea to participate, without the right to vote, in the Committee's debates on the problem.

Representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR supported the USSR draft. They considered that the very elementary principle of justice and equity required a hearing to be accorded to both sides. With respect to North Korea, they pointed out that there were some eleven million people living there, who were under the authority of their own elected authorities and not under the South Korean Government. They argued that the two parties concerned were involved in a civil war taking place in Korea and to use the concept of aggression with reference to a civil war was an unprecedented violation of the basic principles of international law. They appealed to the Committee to adopt the USSR proposal; for it was fair and would contribute to a peaceful and just settlement of the Korean problem.

The representative of Syria declared that even a criminal and an aggressor had a right to be judged fairly, which implied that he should be given the opportunity to appear and defend himself. The General Assembly, he said, was not a court of law; but, since it was trying to solve the problem, it should show proof of its impartiality and hear both parties to the dispute.

Representatives of El Salvador, Turkey, the United Kingdom, the United States and Uruguay supported the Chinese proposal. While regretting that a distinction had been drawn between North Koreans and South Koreans, they argued that only the Republic of Korea had shown itself ready to recognize the authority of the United Nations, whereas the other party had never given any sign of willingness to co-operate in a peaceful settlement of the question. It had, on the contrary, tried to settle the problem by violence and by fighting against the United Nations forces. The Security Council, they said, had decided that the authorities of North Korea had been guilty of a breach of the peace. The United Nations could not issue an invitation to a party which had committed an act of aggression and which worked against the aims of the United Nations. The Republic of Korea, on the other hand, was a child of the United Nations and was deeply concerned in the discussions which were to take place.

The First Committee, at its 347th meeting on 30 September, voted on both proposals. The USSR draft (A/C.1/562) was rejected by 46 votes to 6, with 7 abstentions; the Chinese draft (A/C.1/563) was adopted by 50 votes to 5, with 5 abstentions.

The representatives of India, Indonesia, Iraq, Syria and Yugoslavia explained their votes. The representative of India stated that since hostilities had not ceased in Korea and since the conflict between the North Korean authorities and the United Nations was continuing, his delegation could not vote for the USSR draft resolution. However, after the cessation of hostilities, should the North Korean authorities wish to be heard by this Committee or any other committee set up by the United Nations, the position, he said, could be reconsidered in the light of circumstances then existing.

The representative of Indonesia explained that as he had not received instructions from his Government on the subject, he could not vote on the draft resolutions.

Giving reasons for voting against the USSR proposal, the representative of Iraq stated that his delegation was of the view that it would be desirable to hear the representatives of all the people of Korea, but the fact that one party was an aggressor made his delegation postpone a decision on whether or not that party should be heard until it had unconditionally surrendered to the United Nations.

Because there had been no application from the North Korean authorities to be heard by the Committee, the representative of Syria said that his delegation had abstained in the vote. However, he reserved the right of his delegation to vote in favour of such an application when it was presented.

The representative of Yugoslavia recalled that, from the beginning of the present conflict in Korea, his delegation had demanded that a representative of North Korea should be invited by the Security Council and heard. However, neither the North Korean Government nor those representatives who were demanding the extension of an invitation to representatives of North Korea had manifested at that time a desire that the representatives of North Korea be heard. Despite that fact, the Yugoslav delegation maintained that, since the United Nations was assuming more responsibility for the solution of the problem of Korea, it would be improper not to invite and not to hear a representative of North Korea.

At the invitation of the Chairman, the representative of the Republic of Korea, Mr. Ben C. Limb, took a seat at the Committee table.

The Chairman, with the concurrence of the Committee, invited the Rapporteur of the United Nations Commission on Korea to give an account of the Commission's report (A/1350). After summarizing the various parts of the report, the Rapporteur ended by drawing the attention of the Committee to the analysis and conclusions contained in part four of the report. In that respect, he emphasized Korea's need for assistance from outside in dealing with the very serious problems of reconstruction and rehabilitation.

In the course of the general debate on the question, the following draft resolutions were submitted:

(a) Joint draft resolution (A/C.1/558) proposed at the 347th meeting by Australia, Brazil, Cuba, Netherlands, Norway, Pakistan, Philippines and the United Kingdom which, after recalling the previous Assembly resolutions on the Korean question and noting the Security Council's resolutions of 25 and 27 June 1950, recommended, inter alia, that appropriate steps be taken to ensure conditions of stability throughout Korea and that all constituent acts, including the holding of elections under United Nations auspices, be taken to establish a unified, independent and democratic Government in Korea. The draft resolution also recommended that United Nations forces should not remain in any part of Korea otherwise than so far as was necessary for achieving the objectives mentioned above. It also called for measures to be taken for the economic rehabilitation of Korea. The draft resolution provided for the setting up of a United Nations Commission for the Unification and Rehabilitation of Korea to carry out the resolution.

(b) Joint draft resolution (A/C.1/567) submitted at the 349th meeting by the USSR, the Ukrainian SSR, the Byelorussian SSR, Poland and Czechoslovakia which, inter alia, recommended the immediate cessation of hostilities and the withdrawal of all foreign troops and called for the establishment of a Government of a unified Korea by means of all-Korean elections held under the auspices of a joint (parity) Commission composed of deputies of the Assemblies of North and South Korea and under observation by a United Nations Committee, with the indispensable participation in the latter of the representatives of States bordering on Korea. It also provided for plans to be drawn up for rendering economic and technical aid to the Korean people through the United Nations. It asked that, after the establishment of the all-Korean Government envisaged in the resolution, the Security Council consider the question of admitting Korea to membership in the United Nations.

(c) Draft Resolution (A/C.1/568) presented at the same meeting by the USSR which called upon the United States to terminate and prohibit the barbarous bombing of peaceful inhabitants and towns by United States armed forces in Korea.

(d) Draft resolution (A/C.1/569) presented at the same time by the USSR which proposed that the United Nations Commission on Korea be disbanded.

(e) Draft resolution (A/C.1/572) submitted at the 353rd meeting by India which proposed the appointment of a sub-committee to take into consideration all resolutions, proposals and suggestions concerning the Korean question in order that it might recommend to the Committee a resolution on the subject commanding the largest measure of agreement.

On 2 October 1950, at the request of the Secretary-General of the USSR delegation, the text of a cable dated 28 September 1950 from the Minister for Foreign Affairs of the Korean People's Democratic Republic to the President of the General Assembly and the Security Council was circulated as document A/C.1/565.

The document, inter alia, stated that the United States inspired and directed the Republic of Korea to bring about internecine war in Korea, giving it political, military and economic support. It asserted that secret documents captured in Seoul provided irrefutable evidence that the plans for the attack upon North Korea were conceived by the Republic of Korea and agreed to by the United States. It protested against the armed intervention in Korea and appealed to the United Nations to condemn the "atrocities of American armed forces in Korea and to take steps towards the immediate cessation of foreign intervention and the withdrawal of the aggressors' troops from Korea".

Six amendments were submitted to the joint eight-Power draft resolution (A/C.1/558):

(a) Amendment (A/C.1/564) by Chile, submitted at the 347th meeting, recommending, inter alia, that the Economic and Social Council study long-term measures to promote the economic development and social progress of Korea.

(b) United Kingdom amendment (A/C.1/566), submitted at the 349th meeting, requesting the Secretary-General, inter alia, to provide the proposed Commission with adequate staff and facilities.

(c) Amendment (A/C.1/570) by El Salvador, submitted at the 349th meeting, which proposed, inter alia, that the United Nations Commission on Korea be continued with the addition of new members.

(d) Amendment (A/C.1/571) by Brazil, submitted at the 352nd meeting, expressing appreciation of the services of the United Nations Commission on Korea.

(e) Israeli amendment (A/C.1/573), submitted at the 353rd meeting, which proposed the inclusion of a new paragraph in the joint eight-Power draft proposing that all sections and representative bodies of the population of Korea, South and North, be invited to co-operate with the organs of the United Nations in the restoration of peace, in the holding of elections and in the establishment of a unified Government.

(f) Oral amendment, submitted by the Mexican representative at the same meeting, proposing that the Commission should render a report to the next regular session of the General Assembly and to any prior special session which might be called on the subject, and such interim reports as it might deem appropriate, to the Secretary-General for transmission to Members.

At the 352nd meeting, the United Kingdom orally proposed that the text of the joint eight-Power draft be completed, firstly, by inserting the provision that the Commission consist of Australia, Chile, Netherlands, Pakistan, Philippines and Turkey, with a seventh member to be specified at the meeting of the General Assembly at which the resolution would be considered and, secondly, by replacing the final incomplete phrase of the joint draft resolution "on or before October ..." with the following phrase: "within three weeks of the approval of this resolution by the General Assembly".

In a statement introducing the eight-Power draft (A/C.1/558), the representative of the United Kingdom stressed that the solution desired by the vast majority of the Members of the United Nations and of the Korean people was the creation, by democratic processes, of a truly independent and unified Korean government and an end to the present tragic and unnatural division of the country. In the past, the will of the General Assembly, he said, had been frustrated by the refusal of the North Korean authorities to co-operate with the United Nations. He believed that it was the function of the Committee to face the facts as they existed in Korea and to put into effect a constructive programme which would serve the interests of the Korean people as a whole, as well as world peace. Stressing the urgent need for relief and rehabilitation as soon as hostilities ceased in Korea, he stated that the United Nations must assume responsibility for meeting that need. In conclusion, he submitted that the eight-Power draft resolution offered the best basis for a rapid and peaceful settlement in Korea. Those who had started the aggression, he declared, had it in their power to bring the destruction to an end and to allow the rehabilitation to begin without further delay. It was their solemn duty, as it was the duty of the First Committee, to do everything to end the bloodshed and suffering.

In addition to the sponsors of the eight-Power draft (A/C.1/558), the representatives of China, Ecuador, El Salvador, France, Greece, Iraq, Mexico, Peru, the United States, Uruguay and Venezuela, among others, spoke in support of it. They stated that the eight-Power draft, a logical development of the previous decisions of the General Assembly and the Security Council, offered to Korea peace, unity and restoration, without recrimination concerning the past or discrimination due to political convictions.

The joint draft resolution, they asserted, contained the elements necessary and helpful to attain the aims set out in previous resolutions of the General Assembly. The essential objective of the Assembly had been, and continued to be, the establishment of a unified and democratic Korea. The draft resolution emphasized that the United Nations forces in Korea were there exclusively

in service of those aims, and should be withdrawn as soon as there was a reasonable guarantee that the objectives of the United Nations were achieved. Therefore, there could be no reason whatsoever to misconstrue the assistance rendered by the United Nations to the victims of aggression in Korea; there could be no reason to claim that the real aim would be the furtherance in that part of Asia of particular interests of particular Powers. Voluntary support of the collective action by the overwhelming majority of the Members of the United Nations must prove to the whole world, and to the peoples of Asia in particular, that the one and only motive of the United Nations was resistance to any form of aggression and the establishment of freedom and security in the sphere of law and order. The draft resolution recognized the duty of the United Nations to assist a free Korea as it emerged from the devastation of a war that had been forced upon it by the aggressor. The joint draft also contained the measures necessary for the implementation of those tasks by creating a new United Nations Commission for the Unification of Korea, to assure the continuation of the constructive work so far undertaken by the existing United Nations Commission on Korea.

The eight-Power draft, they contended, provided the basis for a fair settlement of the Korean question under all safeguards which could reasonably be expected. The action taken by the United Nations in Korea, with major participation by the United States, was the first effective exercise of the collective determination of a large majority to act, in order to meet aggression. The eight-Power draft resolution offered a method of shouldering the heavy responsibilities which flowed from that action, responsibilities towards the Korean people and towards the United Nations troops who had died in support of the United Nations.

The above representatives went on to state that the joint eight-Power proposal was aimed at reuniting the two parts of Korea which had been artificially separated. It also took into account the fact that, as soon as the conflict was over, it would be essential to provide immediate relief for the population and to give it as much help as possible in making good the material losses it had suffered. It would also give the country moral and spiritual support, for only thus could Korea be freed from any fear of a recurrence of the recent aggression. The objectives of political unification of Korea and the rehabilitation of its economy were stated clearly in the draft, and there was no threat on the part of the United Nations or any of its Members to establish anything in the nature of a protectorate over Korea.

It was asserted that the only purpose of the joint eight-Power draft was to restore the political sovereignty of Korea and to remove the most important threat to world peace. The unification of Korea under a legally constituted and freely elected Government had been the unfaltering approach of the United Nations. Adoption of the eight-Power draft would, they argued, be a most important step toward peace and collective security.

The supporters of the eight-Power draft stated their belief that it represented the views of a wide cross-section of the General Assembly, and was calculated to meet a need of extreme urgency and gravity without entering into moot political issues. They went on to state that the General Assembly could not afford to be remiss in its responsibilities at that critical juncture of history, and the people of Korea must be given a clear indication of its intentions. They hoped that an overwhelming majority of the First Committee would support the joint draft resolution and submit it to the General Assembly with the least possible delay.

The representative of the United States declared that his delegation welcomed the declaration in the joint eight-Power draft resolution that United Nations forces would remain in Korea only as long as might be necessary to carry out the General Assembly's recommendations. His Government hoped that the major portion of that effort would be carried out by units of the United Nations forces from countries other than the United States, and would be pleased if Asian States would contribute the greater share. The United States, he said, did not wish to evade its duty as a Member State. He stated that he had been authorized to declare that his Government sought no special privilege or position in Korea. Endorsing the idea of establishing in Korea a strong United Nations Commission empowered to devise practical and effective methods for achieving United Nations objectives, the United States representative said that the Commission should consult with the Unified Command and with the democratically elected representatives of the Korean people. The future of Korea, he submitted, was, in a special and unique sense, the responsibility of the United Nations. One of the fundamental purposes of the United Nations was self-help and mutual assistance to remove the causes of conflict among men. Stressing the need for a programme to rebuild the economy of Korea

and re-establish its educational, health and social institutions, he stated that his delegation considered that the Economic and Social Council should be requested to proceed immediately to draw up such a programme.

The representative of the Union of South Africa stated that the eight-Power draft sought to secure conditions which would ensure the establishment of a free, independent, united and democratically strong Korea. His delegation could see no objection to the general principles of the resolution. He was, however, not authorized to accept on behalf of his Government any commitments which South Africa had not already accepted with regard to Korea. Subject to this reservation his delegation, he said, would vote in favour of the resolution.

Emphasizing that he was in full accord with the principles of the joint eight-Power draft, the representative of Syria nevertheless stated that some clarification was required on various points in the joint draft. The points deserved to be established on a solid basis and should not be left to the Korean Commission or to any other body. They included, first, the question of who should exercise sovereign authority, including legislative and executive power, covering civil and military eventualities, throughout Korea. He suggested that to each of the four bodies in that area—the United Nations Commission on Korea, the Government of the Republic of Korea, the Unified Command and the Government of North Korea—should be allocated the functions it should have in order to avoid any conflict or hesitations about implementation of the task. Secondly, the period within which the Korean Commission was expected to accomplish its task should be specified. The third question was to what superior organ the Korean Commission should report the progress of its activities when the General Assembly was not in session. Fourthly, what action was to be taken if the North Koreans declined to take part in the proposed elections? He suggested that a sub-committee might be asked to clarify these points.

The representative of the Republic of Korea stated that the United Nations was greatly responsible for Korea's vigorous and healthy growth. The United Nations forces together with those of Korea were fighting for the independence and freedom of the Republic. The Korean Government, he declared, not only appreciated all the aid rendered by the United Nations, but fully concurred that the United Nations had a continuing responsibility in Korea until the nation had been reunited and its normal processes re-established. The only sound basis for the impending decisions on Korea, he explained, was a recognition that, within the framework of that co-operation, his Government must have full opportunity to exercise its own just and proper jurisdiction.

Turning to the subject of the reunification of Korea, he remarked that this reunification had been prevented by the flat refusal of the USSR and of the Northern régime to permit any peaceful reunion. He asserted that the people of Korea, whether from the North or from the South, were homogeneous and indivisible, in race, language, culture and in traditions of the past as well as in goals for the future. Korea, he contended, must and would be reunited, with the same right to free elections which had been exercised in the South extended throughout the entire nation. The entire nation had to be brought under the direct jurisdiction of the Government of the Republic of Korea. He could not doubt that this was also the policy of the United Nations.

On the problems of relief, rehabilitation and the future security of Korea, he pointed out that its future depended on international action to restore the frightful and severe damage inflicted upon the country. The devastation, both material and moral, was immense. The immediate need for relief and the long-term requirements of rehabilitation and reconstruction, he added, were too desperate to require emphasis, too evident to require elaboration.

Speaking in support of the five-Power draft resolution (A/C.1/567), the representative of the USSR considered that the endeavour of the United States to shift the responsibility for Korean events on to the USSR had not justification whatsoever. The very basic principles of the Moscow Agreement of 1945, providing for the re-establishment of a united, independent and democratic Korean State, had never been carried out, owing to the policy adopted by the United States. Instead of a policy of democratization, the United States occupation forces in Korea, he said, had done their best to wreck democratic parties and social organizations, while encouraging and supporting reactionary groups, organizations and parties.

He went on to say that steadily increasing deterioration of the national economy and of the financial situation—owing to tremendous expenditures for the maintenance of police forces and the army, unjust taxes and so-called voluntary contributions imposed upon the people, the unsatisfactory land reforms of 1949 and the misery of the peasants, the fascist method of government

and the police terror, including mass arrests, executions and torture—characterized the state of affairs in South Korea before the beginning of the civil war. The refusal of the Syngman Rhee régime to set up an elementary democratic order had led to a national uprising and a mass partisan movement.

The South Korean leaders, he argued, had rejected all attempts to unify Korea peacefully. The documents captured from the archives of South Korea, including strategic maps, showed that the South Koreans, with the help of the United States, had prepared for and actually started the war at daybreak on 25 June and thus completely refuted allegations that the hostilities had been unleashed by North Korea.

The representative of the USSR then maintained that, from the viewpoint of international law, the concept of aggression was inapplicable to such a civil war as was taking place in Korea. The Charter of the United Nations spoke of acts of aggression by one State against another but did not entitle the United Nations to regard a civil war as a subject for intervention or for any action whatsoever. The Security Council decisions with regard to Korea were illegal, he argued, because the provisions of the Charter relating to aggression had been wrongly applied to this case.

In the course of the debate, he also charged the United States armed forces in Korea with cruel bombardments of the Korean population and open towns in Korea, in violation of two of The Hague Conventions of 1907, which had been signed by the United States.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR spoke against the joint eight-Power draft (A/C.1/558) and in favour of their joint proposal (A/C.1/567). They argued that approving the joint eight-Power draft would amount to approving all of the illegal decisions of the General Assembly and of the Security Council with respect to Korea, and in justifying aggression instead of seeking a peaceful settlement of the conflict. It was not a proposal to promote the establishment of a common democratic régime but to extend the authority of the anti-democratic Government of South Korea to the whole of Korea.

The joint resolution of the eight Powers, they said, recommended the military occupation of the whole country, thereby depriving the Korean people of their inalienable right to self-determination. That was all the more serious since the First Committee would have to take decisions without the representatives of North Korea being permitted to attend and express their views. The draft resolution submitted jointly by eight delegations, they maintained, constituted a flagrant disregard of all the principles, purposes and objectives of the United Nations, because it involved illegal intervention in a civil war and in the internal affairs of another State. In fact, it proposed direct aggression against the Korean people, who were fighting for their independence, democracy and freedom. The eight-Power draft, in reality, provided for the occupation of all of Korea by foreign troops. The five delegations questioned whether the conditions for the withdrawal of the troops would ever be considered fulfilled.

The joint eight-Power draft, the five delegations went on to state, provided for the establishment of a strong United Nations Commission to carry out the necessary measures and for consultation with the Unified Command. Since the big stick was in the hands of the military, such consultation would amount to the United Nations Commission taking orders from the Unified Command.

In support of their proposal, the representatives of the five Powers concerned argued that only the immediate withdrawal of foreign troops from Korea would create conditions propitious to the rehabilitation of the Korean people and to the fulfilment of the latter's inalienable right to self-determination. Korea, they pointed out, had been divided temporarily into two governmental camps. Both discharged their governmental functions through representative organs. Despite the scant confidence inspired by the members of the National Assembly of South Korea, they should be admitted to a joint commission with the representatives of North Korea since, in times of a civil war, there was no other solution. It would be quite natural that the Supreme People's Assembly of North Korea and the National Assembly of South Korea should combine their efforts to establish a unified free and democratic State. The two Parliaments, therefore, should elect a temporary commission and a provisional executive committee to prepare free elections for the National Assembly of Korea which would govern the country until a permanent government was set up.

In order to comply with the Charter and international commitments, the representatives of the five Powers stated, a United Nations Commission should be created, to see that free elections were held in the whole of Korea. Membership of that Commission should include representatives of Korea's immediate neighbours. The five Powers

concerned declared that they were aware that the question of suggested participation on that Commission worried several representatives. The First Committee was reminded that the development of events in Korea was of great concern to both the USSR and the Chinese People's Republic. It was inconceivable to believe that the interests of the United States—so far away from Korea—were greater than the interests of those States bordering Korea.

The five Powers drew attention to the grave economic situation in Korea. The United States armed forces, by their unnecessary bombing, they said, had rained destruction throughout Korea. Now concern was expressed for the reconstruction of the Korean economy. That was why the five-Power draft resolution proposed that plans for economic and technical aid should be drawn up by the Economic and Social Council with the participation of representatives of Korea. Korean participation, the five Powers pointed out, had been omitted from consideration in the eight-Power draft resolution.

In conclusion, the five Powers concerned declared that their draft resolution constituted a lasting and safe road to the solution of the Korean question and would serve not only the interests of the Korean people, but also the interests of general international peace and security.

The representatives of Australia, Canada, China, Ecuador, El Salvador, France, Israel, Mexico, the Philippines, the United Kingdom and Uruguay, among others, criticized the joint five-Power draft resolution. These representatives stated that the five-Power draft was designed and indeed bound to create chaos, confusion and trouble. Instead of supporting the United Nations action against aggression the five-Power draft, they argued, actually defended the interests of the aggressor, namely, North Korea, and its adoption would provide an inducement to aggression by placing the aggressor and victim on the same footing. They could not subscribe to the recommendations of the five-Power draft concerning the establishment of a joint commission to conduct an all-Korean election. The population figures (the population of South Korea was approximately twice that of North Korea) hardly justified adoption of the parity principle on grounds of equity, and in practice that proposal would invite perpetual conflict and deadlock. Nor could they accept the provision for a call to be issued to the belligerents in Korea for immediate cessation of hostilities. The United Nations was one of those described as belligerents. The issuance of a call for the immediate cessation of fighting would be favoured, provided the call was addressed to North Korea alone.

With regard to the eight-Power draft resolution, the representative of India said his delegation agreed entirely with the declared objective of a united Korea and the plan for the economic rehabilitation of Korea. However, his delegation doubted the wisdom of those recommendations which would authorize United Nations forces to enter any part of Korea and to remain there until stable unification had been achieved. The result of such action might be to intensify North Korean opposition and to increase the tension in that part of the world. Faith in the United Nations might be impaired if the United Nations were even to appear to authorize unification of Korea by the use of force against North Korea after the Organization had resisted the attempt of North Korea to unify the country by force against South Korea. Therefore, he believed, the eight-Power draft should be limited to those recommendations dealing with the creation of an independent and united Korea by means of free elections, and to economic rehabilitation. The North Koreans should then be called upon to cease hostilities immediately so as to enable the United Nations to initiate steps that would lead to an early consummation of those purposes. Should the North Koreans fail to respond, the situation could be reviewed.

With regard to the five-Power draft resolution, the representative of India stated that he did not believe that there could be any objection to the first paragraph of the operative part, which recommended that "the belligerents in Korea . . . immediately cease hostilities". The second recommendation, which would provide for the immediate withdrawal of United States troops and others from Korea, was open to the obvious objection of leaving the South Koreans again at the mercy of the North Koreans. The third recommendation, which would provide for elections to a national assembly as soon as possible after the withdrawal of foreign troops, could not be objected to, apart from the precise stage at which those troops were to be withdrawn.

He believed that the fourth recommendation, on a joint (parity) commission, was a detail which might well be considered by the Commission proposed to be set up under the eight-Power draft. There might be difficulties arising out of the fact that the First Committee did not know the character of the Supreme People's Assembly of

North Korea, or the scale on which the population of North Korea was represented therein.

The fifth recommendation—on the indispensable participation, in a United Nations Commission, of States bordering on Korea—was also a matter which could be considered by the commission proposed under the eight-Power draft.

The sixth recommendation in the five-Power draft, the rehabilitation of the Korean national economy appeared to be, in substance, similar to that contained in the other draft resolution. The seventh recommendation, the admission of Korea, following the establishment of an all-Korean government, to membership in the United Nations, appeared to be unexceptionable.

In conclusion, he said that it did not appear impossible that some of the sponsors of the two main draft resolutions should meet to try to hammer out the text of an agreed proposal. For the above reasons, he stated that his delegation would abstain from voting on either draft resolution in its present form, reserving its position in the General Assembly.

The representative of Yugoslavia declared that the five-Power draft did not take account of the present situation in Korea, which was the direct consequence of earlier mistakes and of lost opportunities for peaceful settlement of the dispute. It was necessary to show goodwill and a realistic attitude.

Nor could the eight-Power draft provide the basis for an agreement, he said. The aim of the Security Council's action had been to prevent the alteration by force of a given situation and not to use armed force to change the de facto situation existing at the beginning of hostilities, which would establish such a precedent as to justify any intervention in a country's internal affairs. He thought that such a procedure would only embitter international relations, undermine the prestige of the United Nations and be contrary to the interests of the Koreans. It would mean the extension to the whole country of a régime the weaknesses of which had been shown up by the United Nations Commission. Whatever the position of the two governments, it was for the Koreans alone to decide between them. He supported the Indian proposal (A/C.1/572).

The representative of Burma felt that the eight-Power draft had some points in common with the proposals submitted by the five Powers and that it should be possible to combine them into a single resolution. Consequently, he supported the proposal made by India that a sub-committee should be set up to prepare an agreed text. If, however, such a suggestion proved unacceptable, he stated that his delegation would vote in favour of the eight-Power draft.

The Indian proposal was also supported by the representatives of Egypt, Israel, Mexico, Syria and the USSR, among others. The representatives of Canada, the United Kingdom and the United States, among others, considered that the Indian proposal offered no reasonable hope of settlement by general agreement. They pointed out that no note of conciliation in the speeches of those opposed to the eight-Power draft was evident, and it would be useless, therefore, to expect a compromise to be reached in another body.

All the draft resolutions were put to the vote at the 353rd meeting of the First Committee on 4 October.

The Indian draft resolution (A/C.1/572) was voted on first, and was rejected by 32 votes to 24, with 3 abstentions.

Israeli amendment (A/C.1/573) to the joint eight-Power draft (A/C.1/558): adopted by 29 votes to 2, with 22 abstentions

(El Salvador withdrew its amendment (A/C.1/570) in favour of the Brazilian amendment (A/C.1/571). The United Kingdom, as one of the sponsors of the eight-Power draft, agreed to the inclusion of all the other amendments that had been proposed in the course of the debates.)

Eight-Power draft resolution (A/C.1/558): approved as a whole, as amended, by 47 votes to 5, with 7 abstentions, following separate votes on each paragraph and amendment

Five-Power draft resolution (A/C.1/567): rejected as a whole by a roll-call vote of 46 to 5, with 8 abstentions, following separate roll-call votes on each paragraph

USSR draft resolution (A/C.1/568) concerning air bombings by the United States air forces in Korea: rejected, each of the three paragraphs having been rejected by roll-call votes of 51 to 5, with 3 abstentions

USSR draft resolution (A/C.1/569) calling for the disbandment of the United Nations Commission on Korea: rejected by 54 votes to 5, with no abstentions

b. CONSIDERATION BY THE GENERAL ASSEMBLY

The report (A/1422) of the First Committee was considered by the General Assembly at its 292nd-294th meetings held on 6 and 7 October. The Assembly also had before it the report (A/1424) of the Fifth Committee on the financial implications of the draft resolution proposed by the First Committee.

In its report, the Fifth Committee stated that the establishment of a Commission as proposed in the draft resolution of the First Committee would involve expenditure over a period of

twelve months of approximately $469,100. This estimate, it pointed out, was exclusive of the additional costs which would fall on the budget of the United Nations in connexion with the holding of elections under United Nations auspices. It was exclusive, also, of expenses which might be incurred in connexion with the development of relief and rehabilitation plans, which expenses, it was assumed, would be met outside the regular budget of the United Nations. The report went on to state that the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR opposed the appropriation of funds for the purpose set forth in the First Committee's draft resolution.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR submitted a joint draft resolution (A/1426) identical with that submitted by their delegations in the First Committee. The representative of the USSR also submitted two proposals identical with those submitted in the First Committee regarding: (1) United States air bombings in Korea (A/1427) and (2) the disbandment of the United Nations Commission on Korea (A/1428).

At the Assembly's 292nd plenary meeting on 6 October, the representative of the USSR orally proposed that representatives of both North and South Korea should be heard by the Assembly. This practice, in accordance with the provisions of the Charter, he said, was followed in the discussion by the United Nations of the Palestine, Greek, Kashmir, Indonesian and other questions. The proposal was immediately put to a vote and rejected by 41 votes to 6, with 6 abstentions.

Representatives of Bolivia, France, Greece, Haiti, the Netherlands, New Zealand, Peru, the Philippines, the United Kingdom and the United States spoke in support of the First Committee's draft resolution. Representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR spoke in support of their joint draft resolution and in support of the two USSR drafts. Viewpoints similar to those expressed in the First Committee were reiterated in the General Assembly.

The representative of India viewed with grave misgivings the recommendation contained in the First Committee's draft resolution authorizing—if not positively, at least by implication—the United Nations forces to enter North Korea and to remain there until the unification of Korea were to be completed and stability achieved. He declared that his Government feared that the result might be to prolong North Korean resistance and even to extend the area of conflict. The General Assembly, he declared, should at this stage first of all declare, or reaffirm, its objectives, namely, first, the creation of an independent and united Korea by means of free elections and, secondly, economic rehabilitation of the country. Having done this, and before the United Nations forces advanced farther, the Organization should call upon the North Korean forces to cease hostilities by a certain specified date. In the face of a declaration of objectives made by the United Nations, the North Korean forces would have every inducement to comply with the call. If they did comply, the United Nations could then go on with the implementation of the declared objectives; if they did not comply, the United Nations could review the situation and decide upon some other course. In that way the United Nations, he submitted, would minimize the chances of any further prolongation or extension of the conflict, and the Organization would be in a position to achieve its objectives with the least possible friction or discord.

The draft resolution recommended by the First Committee, after having been completed by adding Thailand as the seventh member of the proposed commission, was put to the vote at the Assembly's 294th meeting on 7 October. With the acceptance of a minor drafting amendment submitted by Australia (A/1429), the draft resolution as a whole, as amended, was adopted by 47 votes to 5, with 7 abstentions, following separate votes on each paragraph. Its text (376(V)) read as follows:

The General Assembly,

Having regard to its resolutions of 14 November 1947 (112(II)), of 12 December 1948 (195(III)) and of 21 October 1949 (293(IV)),

Having received and considered the report of the United Nations Commission on Korea,

Mindful of the fact that the objectives set forth in the resolutions referred to above have not been fully accomplished and, in particular, that the unification of Korea has not yet been achieved, and that an attempt has been made by an armed attack from North Korea to extinguish by force the Government of the Republic of Korea,

Recalling the General Assembly declaration of 12 December 1948 that there has been established a lawful government (the Government of the Republic of Korea) having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; that this government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were observed by the Temporary Commission; and that this is the only such government in Korea,

Having in mind that United Nations armed forces are at present operating in Korea in accordance with the recommendations of the Security Council of 27 June 1950, subsequent to its resolution of 25 June 1950, that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

Recalling that the essential objective of the resolutions of the General Assembly referred to above was the establishment of a unified, independent and democratic Government of Korea,

1. Recommends that

(a) All appropriate steps be taken to ensure conditions of stability throughout Korea;

(b) All constituent acts be taken, including the holding of elections, under the auspices of the United Nations, for the establishment of a unified, independent and democratic government in the sovereign State of Korea;

(c) All sections and representative bodies of the population of Korea, South and North, be invited to co-operate with the organs of the United Nations in the restoration of peace, in the holding of elections and in the establishment of a unified government;

(d) United Nations forces should not remain in any part of Korea otherwise than so far as necessary for achieving the objectives specified in sub-paragraphs (a) and (b) above;

(e) All necessary measures be taken to accomplish the economic rehabilitation of Korea;

2. Resolves that

(a) A Commission consisting of Australia, Chile, Netherlands, Pakistan, Philippines, Thailand and Turkey, to be known as the United Nations Commission for the Unification and Rehabilitation of Korea, be established to (i) assume the functions hitherto exercised by the present United Nations Commission on Korea; (ii) represent the United Nations in bringing about the establishment of a unified, independent and democratic government of all Korea; (iii) exercise such responsibilities in connexion with relief and rehabilitation in Korea as may be determined by the General Assembly after receiving the recommendations of the Economic and Social Council. The United Nations Commission for the Unification and Rehabilitation of Korea should proceed to Korea and begin to carry out its functions as soon as possible;

(b) Pending the arrival in Korea of the United Nations Commission for the Unification and Rehabilitation of Korea, the governments of the States represented on the Commission should form an Interim Committee composed of representatives meeting at the seat of the United Nations to consult with and advise the United Nations Unified Command in the light of the above recommendations; the Interim Committee should begin to function immediately upon the approval of the present resolution by the General Assembly;

(c) The Commission shall render a report to the next regular session of the General Assembly and to any prior special session which might be called to consider the subject-matter of the present resolution, and shall render such interim reports as it may deem appropriate to the Secretary-General for transmission to Members;

The General Assembly furthermore,

Mindful of the fact that at the end of the present hostilities the task of rehabilitating the Korean economy will be of great magnitude,

3. Requests the Economic and Social Council, in consultation with the specialized agencies, to develop plans for relief and rehabilitation on the termination of hostilities and to report to the General Assembly within three weeks of the adoption of the present resolution by the General Assembly;

4. Also recommends the Economic and Social Council to expedite the study of long-term measures to promote the economic development and social progress of Korea, and meanwhile to draw the attention of the authorities which decide requests for technical assistance to the urgent and special necessity of affording such assistance to Korea;

5. Expresses its appreciation of the services rendered by the members of the United Nations Commission on Korea in the performance of their important and difficult task;

6. Requests the Secretary-General to provide the United Nations Commission for the Unification and Rehabilitation of Korea with adequate staff and facilities, including technical advisers as required; and authorizes the Secretary-General to pay the expenses and per diem of a representative and alternate from each of the States members of the Commission.

All paragraphs of the five-Power draft resolution (A/1426) having been rejected in separate roll-call votes, the draft resolution as a whole was not put to the vote.

The two USSR draft resolutions were rejected: the first (A/1427), to have the Assembly call upon the United States to cease its "barbarous bombing" in Korea, by a roll-call vote of 52 to 5, with 3 abstentions; the second (A/1428), to disband the United Nations Commission on Korea, by a roll-call vote of 55 to 5.

6. Relief and Rehabilitation of Korea

a. ACTION BY THE SECURITY COUNCIL

Subsequent to the Security Council's resolutions of 27 June[60] recommending assistance to the Republic of Korea and of 7 July[61] recommending that a unified command be set up, offers of foodstuffs and medical and financial assistance, as well as raw materials, were received from a number of Governments in support of the Council's action in Korea.

The specific question of aid for the civilian population of Korea was taken up by the Security Council at its 479th meeting on 31 July. The Council had before it a joint draft resolution

[60] See pp. 223-24.
[61] See p. 230.

(S/1652) concerning Korean relief submitted by France, Norway and the United Kingdom.

In taking up this resolution the Council first heard Dr. John M. Chang, of the Republic of Korea. He estimated that more than one million people had been driven from their homes and were then concentrated in an area without sufficient facilities to provide for their needs. They needed food, clothes, shelter and medical care, and were exposed to epidemics. Tents, which would provide practical housing, could be used at once. Clothing of all sorts was sorely needed for adults as well as for children. Since rice was the staple food of his country, supplies of that grain would be most helpful. He again expressed the gratitude of his Government and people for the moral support and the military assistance given as a result of the decisive action of the Council. The representative of the Republic of Korea was confident that the free nations of the world would do everything possible to succour his people in their tragic need.

The representative of Norway, on behalf of the sponsors, as well as the representatives of China, Egypt and the United States, spoke in support of the joint draft. They declared that, although the first and most immediate concern of the United Nations was to see that lawless aggression was opposed by all available means, it was an equally important task to relieve the hardships and privations which were inflicted upon the victims of crime. The joint draft was intended to set forth in a preliminary way the responsibilities of the Organization towards the civilian population then suffering in Korea. It underlined and emphasized United Nations interest and concern for that population by doing two things, they explained. First, it requested the Unified Command to develop the ways and means for providing relief. Secondly, it would draw on the generosity, the interest and the expert knowledge of many organizations and people of good will to help the people of Korea by responding to the requests of the Unified Command. They considered the joint draft as a necessary supplement to the Council's previous resolutions on Korea. The United Nations, they maintained, would neglect an important part of its duty if it should fail to combine humanitarian aid with its military aid.

The joint draft was adopted by 9 votes in favour, none against, and 1 abstention (the representative of the USSR was absent from the meeting). The representative of Yugoslavia said that his abstention was in accordance with the general attitude of his Government towards the Korean conflict.

The resolution adopted (S/1657) read as follows:

> The Security Council,
>
> Recognizing the hardships and privations to which the people of Korea are being subjected as a result of the continued prosecution by the North Korean forces of their unlawful attack; and
>
> Appreciating the spontaneous offers of assistance to the Korean people which have been made by governments, specialized agencies, and non-governmental organizations;
>
> Requests the Unified Command to exercise responsibility for determining the requirements for the relief and support of the civilian population of Korea, and for establishing in the field the procedures for providing such relief and support;
>
> Requests the Secretary-General to transmit all offers of assistance for relief and support to the Unified Command;
>
> Requests the Unified Command to provide the Security Council with reports, as appropriate, on its relief activities;
>
> Requests the Secretary-General, the Economic and Social Council in accordance with Article 65 of the Charter, other appropriate United Nations principal and subsidiary organs, the specialized agencies in accordance with the terms of their respective agreements with the United Nations, and appropriate non-governmental organizations to provide such assistance as the Unified Command may request for the relief and support of the civilian population of Korea, and as appropriate in connexion with the responsibilities being carried out by the Unified Command on behalf of the Security Council.

b. ACTION BY THE ECONOMIC AND SOCIAL COUNCIL AT ITS ELEVENTH SESSION

The Security Council resolution was placed before the Economic and Social Council at its eleventh session. At the 411th plenary meeting of the Economic and Social Council on 14 August, the President, on behalf of all of the members present (Czechoslovakia, Poland and the USSR did not attend the Council's eleventh session), submitted a draft resolution (E/1820) on the matter. The draft, among other things, requested the Secretary-General, the specialized agencies and the subsidiary bodies of the United Nations to lend their support in providing the Unified Command with all possible assistance on behalf of the civil population of Korea.

The President stated that the draft resolution unconditionally affirmed the will of the Economic and Social Council to co-operate with the Security Council. In order to facilitate timely action, it provided that the current session of the Economic and Social Council should not, on the disposal of its agenda, be closed, but, rather, ad-

journed temporarily. He indicated that all of the organs and auxiliary bodies of the United Nations had a duty, within their respective fields of competence or in concert, to lend their utmost support to the Organization in its undertaking in Korea and to co-operate in "thwarting the totalitarian campaign to destroy the United Nations and to justify aggression". He went on to state that it would be the duty of the United Nations, once aggression had been repelled, to assist Korea in reconstructing its devastated territory and in bringing its political, economic and social life back to normal. The United Nations would likewise have to provide effective assistance in developing the Korean economy on more progressive lines and in improving the foundations of its social system.

The draft was unanimously adopted on a roll-call vote. Its text (323(XI)) read as follows:

The Economic and Social Council,

Profoundly concerned over the hardship and suffering brought upon the people of Korea by the unlawful attack of the North Korean forces,

Determined to do everything in its power for the relief and support of the civil population of Korea,

Having given due consideration to the resolution adopted by the Security Council on 31 July 1950 and the request addressed to it in that resolution, under the terms of Article 65 of the Charter,

Bearing in mind the agreements between the United Nations and specialized agencies which provide for the co-operation of these agencies with the Economic and Social Council in rendering such assistance to the Security Council as that Council may request, and

Deeply conscious of its functions and responsibilities under Chapters IX and X of the Charter,

A

(1) Declares its readiness to provide for such assistance as the Unified Command may request in accordance with the above-mentioned resolution;

B

(2) Requests the specialized agencies and appropriate subsidiary bodies of the United Nations to lend their utmost support in providing such assistance as may be requested by the Unified Command through the Secretary-General for the relief and support of the civilian population of Korea, and authorizes the Secretary-General to transmit to them directly such requests for assistance as fall within their respective fields of competence;

(3) Invites Governments Members of the United Nations, the Secretary-General, and appropriate non-governmental organizations, particularly those in consultative status with the Economic and Social Council, to assist in developing among the peoples of the world the fullest possible understanding of and support for the action of the United Nations in Korea and requests the Secretary-General to seek on behalf of the Council the co-operation of specialized agencies as appropriate for this purpose;

(4) Authorizes the Secretary-General to invite appropriate non-governmental organizations to give such help as is within their power for the relief of the civilian population in Korea, and requests him to make suitable administrative arrangements in this connexion;

C

(5) Requests the Secretary-General to render progress reports to the Economic and Social Council on action taken under this resolution and to include, when appropriate, such other information and observations as may be helpful for the consideration of longer-term measures for economic and social assistance to the people of Korea;

D

(6) Decides not to close the present session when the Council has disposed of the present agenda but to adjourn it temporarily, and authorizes the President, in consultation with the Secretary-General, to reconvene the Council at United Nations Headquarters whenever necessary in connexion with matters requiring action under this resolution.

c. PROCEDURE FOR CO-ORDINATION OF RELIEF ACTIVITIES

Immediately after the outbreak of hostilities in Korea, the Secretary-General appointed, as his personal representative in Korea, Colonel A. G. Katzin, who left for Tokyo and Korea on 1 July. Subsequently, the Secretary-General assigned C. Hart Schaaf, of the Staff of the Economic Commission for Asia and the Far East, as Special Adviser on Civilian Relief, to co-ordinate the civilian relief requirements with the Unified Command and the Government of the Republic of Korea. A special staff was also recruited for the Secretary-General's office at Headquarters, and on 17 August, Brigadier R. Parminter took up his duties as Special Assistant for Korean Relief, under the over-all direction of the Executive Assistant to the Secretary-General. Procedures for the co-ordination of the handling of assistance were developed in the light of the relevant resolutions of the Security Council and of the Economic and Social Council, in the course of full discussions between representatives of the Secretary-General and the Unified Command.

A statement of co-ordination procedures, agreed upon by the Secretary-General and the Unified Command and followed since early July, was circulated to Member Governments, specialized agencies and other organizations concerned. Under these procedures it was specified that requests for assistance made to the Secretary-General by the Unified Command, after being agreed to by the Unified Command and the Korean Government, would be transmitted by the Secretary-General to Member Governments, competent specialized agencies and, when appropriate, non-governmental organizations. Similarly, the responses to these

requests and independent offers of assistance made by Governments, specialized agencies or other organizations, would likewise be made to the Secretary-General, who would transmit them to the Unified Command. Upon the acceptance by the Unified Command of an offer of assistance, the Secretary-General would inform the Government or organization concerned of the acceptance, and the Unified Command would then establish direct communication with the Government or organization concerned, so as to arrange the details of the offer and its shipment to Korea.

d. REQUESTS BY THE UNIFIED COMMAND

Fourteen requests were received from the Unified Command by the end of 1950, and were transmitted to those Governments, other than the United States, or specialized agencies and other organizations which it was considered might be in the best position to contribute towards filling the requests. The United States Government had already indicated that it was furnishing a large portion of the most urgently required relief supplies and personnel from its own funds and resources.

Of these fourteen requests, ten were for supplies (food, clothing, tents, blankets, soap, building material, medical and educational supplies) and four were for services (public health teams and health and welfare personnel).

e. OFFERS OF ASSISTANCE

A large number of offers of relief assistance for Korea were received by the Secretary-General both in response to specific requests and independently of the requests by the Unified Command. These offers were submitted to the Unified Command in accordance with the agreed procedures. Where they corresponded to specific requests by the Unified Command, they were matched with the requests and were dealt with accordingly. A substantial portion of the most urgently required relief needs was met by the United States Government from its own funds and resources.

Summaries of all offers of assistance, as of 31 December 1950, are given in the table on pages 226-28.

f. SUPPORT BY THE SPECIALIZED AGENCIES AND SUBSIDIARY BODIES OF THE UNITED NATIONS

Under resolution 323(XI) of the Economic and Social Council (see above), the specialized agencies and appropriate subsidiary bodies of the United Nations were requested to lend their utmost support in providing such assistance as might be requested by the Unified Command through the Secretary-General for the relief and support of the civil population of Korea.

In addition to the specific offers of assistance referred to in the aforementioned table,[62] the following steps were taken by the specialized agencies and the United Nations International Children's Emergency Fund:

At its 113th session, in November 1950, the Governing Body of the International Labour Organisation (ILO) authorized the Director-General of ILO to render all appropriate assistance to the United Nations to help in the reconstruction of Korea, while at the same time ensuring that the objectives of ILO would be kept constantly in view.

The Director-General of the Food and Agriculture Organization (FAO), on 2 August 1950, notified the Secretary-General of his readiness to offer all possible assistance, and on various occasions greatly assisted the Secretary-General with technical advice on food supplies, their cost and the best sources of procurement.

The Director-General of FAO, on 18 August 1950, sent a memorandum to the Secretary-General containing proposals by FAO regarding the handling by international organizations of relief and rehabilitation operations in Korea.

At its inaugural session in November 1950, the Conference of FAO adopted a resolution approving action taken by the Director-General of FAO in offering to the Secretary-General the full co-operation of that organization, and authorizing the Director-General to co-operate fully with any administration for Korean relief and rehabilitation to be established by the General Assembly.

At its inaugural session in November 1950, the FAO Forestry and Forest Products Commission for Asia and the Pacific adopted a resolution in which, having recognized the urgent need for sawn timber, firewood and charcoal in Korea for temporary housing and rehabilitation in the war-devastated areas, and having noted that some member countries of the region had stocks of sawn timber available for immediate delivery if shipping could be arranged, the Commission affirmed its desire to assist the United Nations authorities in Korea and requested these authorities to supply to the Commission details of specific requirements. The Secretary-General requested the Direc-

[62] See pp. 226-28.

tor-General of FAO to obtain the assistance of the Commission to meet Unified Command requests for timber for relief purposes.

On 28 August 1950, the Executive Board of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted a resolution deciding, inter alia, that within its framework of competence UNESCO would "give all possible aid and assistance to the action undertaken by the United Nations in Korea"; instructing the Director-General "to relieve the needs of the civilian population in Korea within the fields of education, science and culture, by means of emergency relief, and, at the appropriate time, by a reconstruction project"; and appealing "to the Governments and National Commissions of Member States to participate to the extent of the means at their disposal in this action". The Director-General was authorized "to send a mission to Korea, upon the request of the Secretary-General of the United Nations, to investigate the needs of the civilian population of Korea, in liaison with the Unified Command and the appropriate organs of the United Nations responsible for civilian relief; to provide, upon request, educational supplies on an emergency basis;" and "to prepare in close liaison with the United Nations and other specialized agencies and launch a campaign in cooperation with Member States, their National Commissions and with non-governmental organizations, for assistance to the Republic of Korea in the field of educational, scientific and cultural relief and reconstruction".

The Executive Board further decided to establish a special fund for educational, scientific and cultural aid to the civilian population of Korea in the amount of $100,000, to remain available for obligation until 31 December 1951.

On 9 November 1950, the Executive Board of UNESCO adopted a resolution in which, inter alia, the Director-General was authorized to furnish, at the request of the United Nations, such facilities, advice and other services as might be requested by the Unified Command or any United Nations missions in Korea; to participate in the work of the competent organs of the United Nations and the specialized agencies which might be called upon to frame a long-term reconstruction plan for Korea; and to incur the expenditure involved in giving effect to these decisions.

The Director-General of the World Health Organization (WHO), on 24 August 1950, placed the procurement branch of WHO's regional office in Washington (the Pan-American Sanitary Bureau) at the disposal of the Secretary-General, in order to carry out definite purchases which might be made with offers of financial contributions. On various occasions, WHO also furnished technical advice on medical supplies, their cost and the best sources of procurement.

The Director-General of the International Refugee Organization (IRO), on 3 August 1950, notified the Secretary-General of his readiness to offer assistance in terms of medical and other supplies and the loan or recruitment of welfare officers and other trained personnel.

On 10 October 1950, the General Council of IRO adopted a resolution approving the above action of the Director-General and instructing the Director-General to meet as fully as possible, within the limits of available resources, any future request for assistance for the civil population of Korea which might be received from the United Nations.

On 6 October 1950, the Administrative Council of the International Telecommunication Union (ITU), adopted a resolution instructing the Secretary-General of ITU to inform the Secretary-General of the United Nations of the readiness of ITU, within its own field of competence, to provide such assistance as might be requested by the Unified Command.

On 28 November 1950, the Executive Board of the United Nations International Children's Emergency Fund (UNICEF) approved an allocation of $500,000 for Korea, in order to permit further UNICEF assistance and to replace the original allocation, which had been diverted for emergency assistance to Korean mothers and children.

g. ACTION BY THE ECONOMIC AND SOCIAL COUNCIL AT ITS RESUMED ELEVENTH SESSION

The General Assembly, at its 294th meeting on 7 October, decided to refer paragraph 3 of its resolution 376(V)[63] relating to the problem of the independence of Korea to the Economic and Social Council with a request that it report within three weeks on plans for the relief and rehabilitation of Korea upon the termination of hostilities. By a decision taken at its 296th meeting on 31 October, the General Assembly decided to extend to 10 November 1950 the time for the submission of the Council's report and, at the same time, decided that it should be referred to the Joint Second and Third Committee.

The Council, during its resumed eleventh session, considered the question at its 417th-433rd

[63] See pp. 265-66.

plenary meetings held from 12 October to 7 November.

The Council first heard Colonel Alfred G. Katzin, Personal Representative of the Secretary-General in Korea. The number of refugees in Korea by September 1950, he reported, totalled approximately one and one-half million persons. The greatest need in Korea was for medical supplies, shelter and transport to move urgently needed supplies. Foodstuffs, he remarked, had a lower priority, because United Nations forces had started their offensive in time to save the harvest.

With respect to the plans for the relief and rehabilitation of Korea, he recalled that the Security Council had delegated its powers in the matter to the military authorities. The existing organization, he explained, was as follows: The military authorities had established a committee, under their health and welfare services, to work in strict liaison with the corresponding services of the Korean Government. That committee was composed of officers of the armed forces and also of members of the staff of the United Nations, the World Health Organization and the International Refugee Organization. It was that committee which had drawn up the first co-ordinated relief plan and had submitted a first list of requirements to the Unified Command. That co-ordinated plan was based essentially on the work already done by the Economic Co-operation Administration (ECA) in Korea. He declared that the ECA, which had had a mission in Korea for three years, had drawn up a vast economic, social and political development plan which had obtained the complete approval of the Korean Government. It was a long-term and varied programme, certain parts of which were already being put into effect.

Colonel Katzin summarized his recommendations to the Council as follows:

(a) The Council should adopt as the basis of its work the list of requirements already drawn up by the military authorities in Korea in collaboration with the Korean Government and ECA experts, and transmitted to Washington by the Unified Command.

(b) The General Assembly should grant the most extensive powers to the representative of the United Nations in Korea.

(c) That high official should be left free to decide the size of his staff.

(d) The Council should ask the Unified Command to transmit without delay to the United Nations any application which had or might be submitted to it, so that the sending of necessary winter supplies might be started immediately.

(1) Establishment of a Temporary Committee

The representative of Australia, at the Council's 418th plenary meeting on 16 October, submitted three draft resolutions (E/1852 & Corr.1) concerning plans for relief and rehabilitation of Korea and relating to the long-term measures to promote the economic development and social progress in Korea.

The first of the three drafts which the Council considered referred more particularly to the formulation of a provisional programme of assistance to the civil population of Korea. It proposed the establishment of a temporary committee of seven members of the Council to examine all available material on the probable needs of Korea for relief and rehabilitation and to submit to the Council a provisional programme for the first twelve months or such longer period as might be appropriate, together with an estimate of the cost. For the purpose of maintaining liaison between the Council and the United Nations Commission for the Unification and Rehabilitation of Korea,[64] the representative of Australia suggested that three of the seven members of the temporary committee be composed of the Member States who were members both of the Council and the new Korean Commission, that is, Australia, Pakistan and Chile. The President of the Council was to appoint the other four members.

A vote on the first Australian draft and amendments to it was taken by the Council at its 418th meeting. An oral USSR proposal to include representatives of North and South Korea in the membership of the temporary committee was not accepted, the vote being 14 to 3, with 1 abstention. An oral Chilean proposal to invite the representative of the Republic of Korea to express his views to the temporary committee was also rejected, by 4 votes to 1, with 13 abstentions. The first Australian draft was then adopted by 15 votes to none, with 3 abstentions.

At the 419th meeting of the Council, the President named Belgium, India, the United States and the USSR as the additional members of the temporary committee.

When the Soviet representative stated that he could not accept the nomination, Denmark was named. The President's nominations were approved by the Council by 15 votes to none, with 3 abstentions.

(2) Statement of General Policy on Korean Relief and Rehabilitation

The Council next considered the general principles on which United Nations policy with regard to relief and rehabilitation of Korea could be based. Discussion centred in an annex to the sec-

[64] See p. 266.

ond Australian draft resolution (E/1852), entitled "Statement of general policy on Korean relief and rehabilitation", and amendments to it by the United States (E/1859) and the USSR (E/L.108).

Explaining his proposal, the representative of Australia said that three principles should guide the work of relief and rehabilitation. First, the United Nations Commission should have a direct interest in the work, for the task of rehabilitation was bound to be intertwined with the political task. Second, the Commission should not assume direct responsibility for administering relief and rehabilitation. Thirdly, the countries making the main contributions should be able to exert some influence on the work.

The Australian proposal contained thirteen points. The first four points, the representative of Australia explained, were of a general nature, the third stressing that the United Nations programme was to be a supplement to the efforts to be undertaken by the people of Korea themselves. Point five dealt with the question of priorities. The object of points six to thirteen, he said, was to ensure control of distribution, combat inflation, reduce to reasonable levels remuneration earned by traders for their services, ensure the equitable distribution of essential commodities, exempt relief and rehabilitation supplies from import duties, and so forth. Points eleven and twelve, in particular, laid down that United Nations personnel should be free to supervise the distribution of relief supplies, and should enjoy on Korean territory the privileges, immunities and facilities necessary for the fulfilment of their mission.

The United States amendments (E/1859) contained the following proposals:

(1) A substitution for paragraph 3 of the Australian draft, which would stress the fact that the aim of the relief programme was to supplement the efforts to be made by the Korean people on their own initiative.

(2) A substitution for paragraph 5 of the Australian draft, which would, in the early period of the programme, lay emphasis on the provision of basic necessities of food, clothing and shelter for the population of Korea, and, as the programme developed, shift emphasis to the provision of other materials, supplies and equipment for the reconstruction or replacement of war-damaged productive facilities.

(3) A substitution for paragraph 9 of the Australian draft, which would specify, inter alia, that the local currency proceeds derived from the sale of relief and rehabilitation supplies should be paid into a special account under the control of an Agent-General.

(4) The addition of a new paragraph providing that the Korean authorities should take the necessary economic and financial measures to ensure the judicious use of contributions furnished under the United Nations programme as well as of Korean resources.

(5) and (6) The last two proposals dealt with the information to be supplied and accounting matters.

The USSR amendments (E/L.108) emphasized that assistance should not serve as a means for foreign economic and political interference in the internal affairs of Korea and should not be subject to any political conditions; that representatives of the Korean people should participate in the determination of the needs and in drawing up plans and statements; and that the authorities in Korea should take the necessary measures to distribute supplies through Red Cross agencies, through State, co-operative, and other social organizations and through private trade. At the same time, measures should be taken to ensure that profit from the sale of supplies was kept to the minimum.

The majority of the representatives of the Council endorsed the principles embodied in the Australian proposal.

The Australian proposal and the United States and USSR amendments to it, were voted on, paragraph by paragraph, at the Council's 421st-423rd and 430th meetings on 20, 21, 25 and 30 October. After further drafting amendments, the proposal and amendments were adopted by varying votes (for text, see below).

(3) Organization of the Relief Programme for Korea

The Council then took up the question of the organization of the relief programme for Korea. Its discussion on the matter centred in a joint draft resolution submitted by Australia and the United States (E/1858/Rev.1, Corr.1 & Add.1). The joint draft envisaged the establishment of a United Nations Korean Reconstruction Agency under the direction of an Agent-General and a five-member advisory committee.

The representative of Australia stated that in its original text (E/1852, resolution II, annex I), he had proposed that the Agent-General should be appointed by the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK). However, in view of the heavy political responsibilities to be borne by the Commission, he had agreed to the United States solution that the Agent-General should be responsible to the General Assembly and should not be controlled by the Commission. He declared that although the joint proposal differed somewhat from Australia's original draft, it made it possible to entrust political problems to the Commission, while giving the Agent-General the necessary freedom of action in the economic field.

During the Council's discussion, members expressed general agreement on three main points. In the first place, UNCURK would have a very important role in the recovery of Korea, since the political and economic problems there were so closely linked. Secondly, it was essential to set up in Korea an efficient agency to implement the relief programme. Finally, the countries contributing to the economic rehabilitation of Korea should be in a position to exercise an appropriate measure of control over the operation.

The majority of representatives welcomed the joint proposal as affording the speediest possible relief to the sorely tried people of Korea. The representatives of Czechoslovakia, Poland and the USSR thought the plan ran the risk of infringing the national sovereignty of Korea. They also charged that political elements were introduced into the question by the inclusion of two paragraphs in the preamble to the joint draft which referred to "aggression by North Korean forces". They called for the deletion of these two paragraphs.

The representative of the United States stated that the Council was too responsible a body not to join with other United Nations organs in recording the reasons for the present need of relief in Korea. He said that he could not accept proposals for the deletion of the two paragraphs.

The representatives of several specialized agencies—ILO, FAO, WHO and UNESCO—assured the Council of their support for the Korean relief plans. The representative of the International Confederation of Free Trade Unions (ICFTU), a non-governmental organization, said that ICFTU had organized an information campaign to support United Nations action in Korea. The American Federation of Labor and the Congress of Industrial Organizations, affiliated with ICFTU, were sending food parcels to Korea. The representative of the World Federation of Trade Unions, another non-governmental organization, thought it was first necessary to restore peace in Korea before it would be possible to carry out a programme of relief and rehabilitation there satisfactorily. The co-operation of the United Nations Technical Assistance Administration was pledged by its Director-General.

After further debate, the Council at its 430th meeting on 30 October adopted the joint Australian-United States proposal, having incorporated various drafting amendments to the resolution. The preamble to the resolution was adopted by 14 votes to 3, while the operative part was adopted by 15 votes to none, with 3 abstentions (for text, see below).

(4) Report of the Temporary Committee

Under the resolution adopted by the Economic and Social Council on 16 October, the task of the Temporary Committee on Provisional Programme for Relief and Rehabilitation Needs of Korea was to examine all available material on the probable needs of Korea for relief and rehabilitation and to submit to the Council, as soon as possible, a provisional report on the scale of the programme required, together with an estimate of the cost.

In its report to the Council, submitted on 1 November, the Temporary Committee, consisting of representatives of Australia, Belgium, Chile, Denmark, India, Pakistan and the United States, stated that it held six meetings. It received statements on estimated requirements from the Personal Representative of the Secretary-General in Korea; the Unified Command, through the representative of the United States on the Committee; and the Minister of Foreign Affairs of the Republic of Korea.

The statement by the Personal Representative of the Secretary-General in Korea stressed the impossibility of making any firm assessment of the total cost of necessary relief and rehabilitation, but expressed the view of the United Nations Adviser on Civilian Relief in Korea that the total requirements would almost certainly exceed $500,000,000 over a period of several years, excluding supplies and services which the Koreans themselves would be able to furnish. He recommended that a sum of not less than $250,000,000 should be envisaged as a minimum "budget" for the first year.

On behalf of the Unified Command in Korea, the representative of the United States submitted an estimate of $364,000,000 for major categories of expenditures covering the period 25 June 1950 to 31 December 1951, including goods ordered but not delivered during this period. Stress was laid on the provisional nature of these estimates. The United States representative explained that, in the preparation of these estimates, emphasis had been placed not upon the total amount of damage or current requirements, but upon the amount which it was estimated could be actually absorbed by the Korean economy in the period under consideration.

The Minister of Foreign Affairs of the Republic of Korea submitted an estimate for total requirements from 25 June to 31 December 1950 of $286,000,000; an estimate for total requirements from 1 January to 31 December 1951 of

$394,000,000; and an estimate for the total requirements for five and a half years of $2,064,000,000.

After considering these statements, the Committee concluded that the estimates of requirements were approximately the same as regards supplies needed before the end of 1950. It did not consider itself in a position to examine the assumptions and detailed data on which the estimates had been made. Consideration of the scale of the programme, as well as the period to which it should relate, was, the Committee pointed out, complicated by the fact that certain elements in the situation were largely unknown. These factors included the period in which military operations would be necessary; the extent of war damage in North Korea; the magnitude of the recovery effort to be made by the Koreans themselves; and, finally, the contributions to be provided by Member States.

The Committee therefore considered, on the basis of the figures submitted to it, that a programme costing approximately $250,000,000 would be required for a period beginning 1 January 1951 and extending at least into the earlier part of 1952.

(5) Financing the Korean Programme of Relief.

The report (E/1864) of the Temporary Committee was considered by the Council at its 431st to 433rd meetings held on 6 and 7 November. In addition to the Committee's report, the Council discussed three proposals on methods for financing Korean relief and reconstruction. The first of these was resolution III (E/1852 & Corr.1), submitted by Australia, which proposed the calling of a special conference on Korean Relief and Rehabilitation to determine the amount of contributions necessary for Korean relief. Contributions were to be voluntary, with Governments making contributions in such forms and subject to such conditions as might be agreed upon by the relief administrator and the contributing country.

The two other proposals were submitted by the United States. The first (E/L.114) provided that financial needs, determined by periods, would be decided annually by the General Assembly which would establish a scale of contributions from Member States in percentages, along the same lines as the United Nations budget is apportioned. The second (E/L.125) recommended that the methods of financing the proposed programme of relief and rehabilitation be determined by the General Assembly.

During the ensuing debate, most of the representatives in the Council including those of Brazil, France, Pakistan and the United Kingdom, spoke in support of the Australian proposal. They considered that a system of voluntary contributions was the most realistic and acceptable approach to the problem. The United States proposal (E/L.114) for a system of assessments by percentages, they felt, would involve compulsory allocation of contributions.

The representative of the United States denied that his proposal implied compulsion and stated that it would permit all Member States, whether or not they were prepared to participate in the Korean rehabilitation programme, to make their intentions known without any external pressure.

The representative of Canada thought that the United States plan had obvious advantages. In drawing up a scale of contributions, account could be taken of the special problems of all the Member States and the scale, once it had been prepared by a competent body, such as the Committee on Contributions or the Fifth Committee, would give each country helpful guidance on the amount of its contribution. The Member States might change their contribution as fixed by the scale in accordance with the various considerations they felt should be taken into account. He considered such an arrangement to be satisfactory, as it would suggest to each country the size of its contribution without compelling it to accept a figure which it might have valid reasons for rejecting.

The representative of the USSR held that the Temporary Committee had failed in its task, as it had not considered the detailed data involved, one of the reasons being the absence of a representative of the Korean people. The Committee had merely referred to the Council the estimates made by the United States and the United Nations Secretariat. He thought that contributions should be on a voluntary basis and in national currencies.

The representatives of Belgium, the United Kingdom and Canada submitted amendments to the second United States proposal (E/L.125). In submitting his amendment (E/L.126/Rev.1), the representative of Belgium explained that the Council, in his opinion, should not make any recommendation to the General Assembly which would endorse such estimates as the $250,000,000 given in the Temporary Committee's report. The Council should simply forward its Committee's report to the Assembly for consideration. The United Kingdom amendment (E/L.127) recommended that the Assembly invite Member Governments to be ready to indicate, before its present session ad-

journed, the extent of the contributions they were prepared to make. In tabling his amendment (E/L.128), the representative of Canada observed that the United Kingdom amendment stated an extremely important principle: Member States should be warned that the Council considered the question of the relief and rehabilitation of Korea very important. It was essential that Governments should be notified at once of the probable size of the aid required in Korea, so that delegations might be prepared to discuss the question of contributions before the end of the fifth session of the General Assembly. There was no reason why the Council should not issue that warning. He therefore suggested a slightly different wording from that proposed by the United Kingdom representative. The United Kingdom representative withdrew his amendment and accepted the Canadian amendment.

The representative of Pakistan noted that the purpose of the United States proposal was to refer the question of methods of financing to the General Assembly, so that if the proposal were adopted, the Governments of all Member States would have an opportunity to express their views on the question. He therefore orally suggested that the reference to the method of financing in the Canadian amendment should be deleted. In addition, it should be specifically stated that it was to the General Assembly that the Governments of Member States should indicate the extent of the contributions they were prepared to make. Canada and the United States accepted the Pakistan amendment.

The representative of Australia withdrew his delegation's draft resolution III. He stated that Australia would support the United States draft as amended. It was his understanding, he continued, that the Council would state its decision concerning the total cost of the programme, leaving it to the General Assembly to determine the methods of financing the programme. In any event, he asserted, Australia would not support the establishment of a compulsory scale of contributions.

The Council at its 433rd meeting on 7 November voted on the United States draft resolution (E/L.125) embodying the Canadian amendment (E/L.128), as amended verbally by the representative of Pakistan. The draft resolution was adopted, as amended, by 14 votes to none, with 3 abstentions.

The representative of France said that he had voted in favour of the United States draft resolution, because in his opinion the proposed solution was not unreasonable. He did not think, however, that it was the best decision the Council could have taken, since the question of financing the programme had been submitted to the Council on an equal footing with the other aspect of that programme. The withdrawal of the Australian draft resolution, he declared, had placed Council members in a somewhat difficult position as there had apparently been a majority in its favour. In any event, the decision just taken by the Council should not be construed to mean that it was not competent to deal with the question of financing. The French Government considered the Council fully competent in those matters and thought that it had already proved its competence, particularly in the case of the Expanded Programme of Technical Assistance.[65]

The representative of Australia agreed with the representative of France. He added that if the General Assembly had not been in session he would have insisted on the adoption of his draft resolution.

As adopted, the resolution (338(XI)) noted the report of the Council's Temporary Committee, indicating that a relief programme costing approximately $250,000,000 must be contemplated over a period from 1 January 1951 at least until early 1952. It recommended that the General Assembly examine this estimate in conjunction with the development of the military situation in Korea. It also requested the Secretary-General to bring the resolution immediately to the attention of all Member Governments, in order that they might be ready to indicate, before the present Assembly session adjourned, the extent of the contributions they were prepared to make to the relief programme, subject to the action of their respective constitutional bodies. Annexed to this resolution was the text of the proposal the Council previously adopted on 30 October establishing a United Nations Korean Reconstruction Agency, and laying down various principles of general policy on Korean relief and rehabilitation (for text, as adopted by the General Assembly, see below).

(6) Long-Term Measures to Promote the Economic Development and Social Progress of Korea

At the Council's 436th meeting on 13 December, the President recalled that the resolution adopted by the General Assembly at its 294th plenary meeting on 7 October 1950[66] recommended that the Economic and Social Council expedite the study of long-term measures to promote the economic development and social progress of

[65] See pp. 448 ff.
[66] See pp. 265-66.

Korea. Chile, France and the United States had submitted a draft resolution (E/L.132) on the subject, requesting the Secretary-General to make available to the Council at its twelfth session all the information relevant to the study of the question.

The representative of the United States expressed the opinion that the Council should not adjourn without taking steps in the direction recommended by the General Assembly. In view of the existing situation, however, it was obvious, he noted, that the Council could make no definite plans before receiving additional information and reports on the situation prevailing in Korea; hence the request contained in the three-Power draft.

The USSR representative observed that the first paragraph of the three-Power draft referred to the whole of the resolution adopted by the General Assembly on 7 October; the Council, however, was concerned only with the recommendation contained in paragraph 4 of that resolution. Consequently he suggested that, in the first paragraph, the words "paragraph 4 of" should be inserted after the words "Noting the recommendation of the General Assembly in".

The second paragraph of the draft resolution requested the Secretary-General to make information available to the Council "after consultation with the Agent-General of the United Nations Korean Reconstruction Agency". He suggested that those words should be deleted because the Council was concerned with long-term measures while the Agent-General was concerned only with immediate relief problems; hence there was no need to consult him on the long-term programme.

The representatives of Mexico and of Pakistan expressed the opinion that the Secretary-General should consult not only the Agent-General but also the United Nations Commission for the Unification and Rehabilitation of Korea and the Advisory Committee.

Agreeing with the representatives of Mexico and Pakistan, the representative of the United States said that the Secretary-General should also consult the competent Korean authorities. Instead of listing all the persons and bodies to be consulted by the Secretary-General, he suggested that the Council might adopt the USSR proposal to delete the words "after consultation with the Agent-General of the United Nations Korean Reconstruction Agency", because it would be obvious from the records of the discussion that the Secretary-General would be expected to consult all persons and bodies concerned in the matter. Although he could see no special need for the first amendment proposed by the USSR representative, his delegation, he said, would raise no objection to it.

The two oral amendments proposed by the USSR were adopted. The draft resolution, as amended, was adopted unanimously. Its text (339(XI)) read as follows:

The Economic and Social Council,

Noting the recommendation of the General Assembly in paragraph 4 of its resolution adopted on 7 October 1950 on the problem of the independence of Korea that the Economic and Social Council expedite the study of long-term measures to promote the economic development and social progress of Korea,

Requests the Secretary-General to make available to the twelfth session of the Council such information as in his opinion is relevant to the study of long-term measures of economic development and social progress of Korea recommended by the General Assembly.

h. ACTION TAKEN BY THE GENERAL ASSEMBLY

The Joint Second and Third Committee at its 52nd-54th and 56th meetings on 11, 13, 15 and 25 November considered the draft resolution (A/1493, Appendix) submitted by the Economic and Social Council, which referred to the report of the Temporary Committee on Provisional Programme for Relief and Rehabilitation Needs of Korea. It agreed that the Fifth Committee should be requested to advise it regarding the financial arrangements for the relief and rehabilitation programme as a whole. It also agreed to proceed with the general debate, but to defer voting on the draft resolution and the amendments to it pending consideration of the financial arrangements by the Fifth Committee.

In accordance with this decision, the Fifth Committee considered the question of financial arrangements for the proposed relief programme at its 268th meeting on 21 November. The Committee had before it the draft resolution (A/1493) submitted by the Economic and Social Council which recommended that: (1) the General Assembly examine the estimates referred to in the report (E/1864) of the Temporary Committee on Provisional Programme for Relief and Rehabilitation Needs of Korea in the light of the development of the military situation in Korea, and (2) the methods of financing the proposed programme should be determined by the General Assembly itself.

The Committee recommended for inclusion in the Council draft resolution paragraphs relating to the financing of the programme, and providing for the establishment of a negotiating committee.

It was understood that this committee would be composed of seven or more members appointed by the President of the General Assembly for the purpose of consulting, as soon as possible during the current session of the General Assembly, with Member and non-member States as to the amounts which Governments might be willing to contribute on a voluntary basis towards both the proposed relief and rehabilitation programme in Korea and the current and future relief and reintegration programme for Palestine refugees.[67] As soon as the negotiating committee completed its work, the Secretary-General, at its request, was to arrange an appropriate meeting during the current Assembly session of both Members and non-members, at which the former might commit themselves to their national contributions and the latter make known what they would contribute. The recommendations (A/C.2&3/95) of the Fifth Committee were transmitted to the Joint Second and Third Committee by the President of the General Assembly on 22 November.

The Joint Second and Third Committee, at its 56th meeting on 25 November, dealt with the recommendations of the Fifth Committee. The representatives of Argentina and Chile considered that the negotiating committee would conduct preliminary consultations with Governments and that tentative proposals made in the course of such consultations would not represent final financial commitments. The final commitments in the field of contributions would be made only after the negotiating committee had completed its preliminary work.

France and Mexico asked the Secretary-General to prepare estimates for both relief and rehabilitation for the first year of the programme, so as to supply Governments with information on which they could determine their contributions.

The USSR representative expressed the opinion that the contributions of each country should be voluntary and that the arrangements agreed upon should be such as to enable them to be made in national currencies for the purchase of goods or services required in Korea for the purposes of the relief and rehabilitation programmes.

The recommendations of the Fifth Committee were then put to the vote by the Chairman on the understanding that they would constitute a separate resolution; they were adopted by 35 votes to none, with 7 abstentions.

In the course of the general debate on the plans for the relief and rehabilitation of Korea, several representatives of the Joint Second and Third Committee, including those of Belgium, Bolivia and China, expressed their appreciation of the work accomplished by the Council, and expressed their satisfaction on the whole with the administrative structure suggested by it. They thought the Council had prepared a well-integrated and practical programme.

Some representatives, among them, the representatives of the Philippines and Uruguay, expressed their concern with regard to the legal and constitutional relationship between all of the various authorities in Korea, and feared the possibility of confusion as to the respective spheres of competence of the United Nations Korean Reconstruction Agency (UNKRA) and the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK). They also specifically asked for a clear definition of the functions and powers of the Agent-General and for clarification of his relationship with the proposed Advisory Committee.

The representative of Uruguay stated that it was necessary to guard against the danger that the Agent-General might become a kind of proconsul with almost unlimited powers. Unless his powers were clearly defined and limited, there was danger of this happening. It should be made clear, he pointed out, that the Agency (UNKRA) be concerned with non-political matters only and that all political questions remain within the exclusive competence of UNCURK. The representative of the Ukrainian SSR also drew attention to the danger that the Agent-General might become a dictator with power to regulate the economy of Korea in whatever way he might choose.

The representative of Chile, on the other hand, argued that the draft resolution provided for an adequate distribution of authority between the political organs of the United Nations represented by the Korean Commission, the financial and advisory bodies meeting at Headquarters, and the administrative, technical and executive organization directed by the Agent-General.

The Joint Second and Third Committee, at its 56th meeting on 25 November, voted on the draft resolution submitted by the Council (A/1493) and the various amendments to it. The first of these was an oral USSR proposal to delete paragraphs 3 and 4 of the preamble of the draft resolution. The USSR representative, supported by the representatives of the Byelorussian SSR, Czechoslovakia and the Ukrainian SSR, contended that those paragraphs infused political considerations into an economic and social question. They argued

[67] See pp. 323-35.

that the draft resolution itself had been based on false premises, since it designated North Korea as the aggressor, and the fact remained that North Korea had been the victim and not the aggressor. The real cause of the economic destruction in Korea, they asserted, was the invasion of the United States Army, the bombing and scorched-earth tactics adopted by American units in Korea.

In reply, the representative of the United States said that he would not answer the accusations made against his country, as the facts were sufficient to refute them. The United States, he declared, had confidence in the judgment of history. He then went on to reassert the firm resolve of the United States to take part in the rehabilitation of Korea and to do everything in its power to re-establish in that country and throughout the world conditions of peace and welfare for all. Other representatives, including those of Bolivia, Chile and the United Kingdom, drew attention to the fact that fifty-three Member States had ratified the resolutions of the Security Council designating North Korea as the aggressor and asking the United Nations to take steps against the aggression in Korea. They felt that the only way in which the fifty-three countries which did not share the views of the USSR could dissociate themselves therefrom without giving rise to vain political debates was by voting in favour of the paragraphs of the draft resolution which refuted those allegations.

The USSR proposal was rejected by 5 votes in favour to 31 against, with 5 abstentions.

The representative of Chile proposed an amendment (A/C.2&3/L.32 & subsequent revisions 1 & 2) to the Council's draft resolution which was designed to clarify the relations between the United Nations Commission for the Unification and Rehabilitation of Korea and the Agent-General. In the debate that followed, a general feeling was expressed that the Agent-General should have wider executive powers than those envisaged in the Chilean amendment. In view of this, the representative of Chile withdrew his proposal and subsequently a joint text (A/C.2&3/L.32/Rev.4) was submitted by Chile, the United States and Uruguay. The joint text, among other things, empowered the Korean Commission, after consulting the Agent-General, from time to time, to make recommendations to the Economic and Social Council on the adequacy of the Agency's programme to meet the needs of Korea as defined in the statement of general policy. This text, with an additional clause (A/C.2&3/L.36) proposed by Australia, which made provisions for the Agent-General to carry out his responsibilities in close co-operation with the Korean Commission, was adopted by the Joint Second and Third Committee by 35 votes to none, with 7 abstentions.

The representative of Uruguay submitted five amendments (A/C.2&3/L.34) to the Council's draft designed to give effect to the points he had made in the Committee's discussions. He had warned that unless the Agent-General's powers were clearly defined and limited, there would be the danger that he would become a kind of pro-consul with almost unlimited powers. Inasmuch as the Agent-General was to be responsible to the General Assembly, the Uruguayan representative felt that he should be elected by that body, instead of being appointed by the Secretary-General, as the Council's draft proposed. In addition, he thought that the Korean Commission's authority should be clearly paramount not only in political but in all economic, social, and even administrative matters, as well. It should also be made quite clear, he suggested, that the proposed Advisory Committee should advise the Agent-General on major questions of finance, procurement, distribution and other matters.

The representative of Uruguay withdrew three of his amendments (1, 2 & 5 of A/C.2&3/L34), following the approval of the joint amendment **of** Chile, the United States and Uruguay (A/C.2&3/-L.32/Rev.4). The two other amendments (3 & 4 of A/C.2&3/L.34), which dealt with financial procedures and budgetary techniques, were adopted by the Committee—one, as amended orally by Chile, by 34 votes to none, with 7 abstentions; the other, as amended orally by Canada, by 33 votes to none, with 5 abstentions.

The Secretary-General proposed a reworded text (A/C.2&3/L.38) of the Council draft resolution dealing with the proceeds from the sale of relief and rehabilitation supplies. It was explained that the purpose of that amendment was to provide the Agent-General with alternative methods of determining the amounts which the authorities in Korea would place in an account under his control. It was important, it was emphasized, that he should have those alternatives since the conditions to be found in Korea were as yet unknown. The Secretary-General's text also included the principal provision of the amendment (A/C.2&3/-L.35), submitted by the United States, relevant to the use of those funds by the Agent-General after consultation with the Korean Commission (UNCURK) and the Advisory Committee of the Korean Agency (UNKRRA). During the ensuing discussion the representative of the United States

withdrew the amendments which he had proposed. The text, as proposed by the Secretary-General and amended orally in two respects by Australia and Chile, was adopted by 37 votes to none, with 5 abstentions. This text, in effect, provided that the proceeds from the sale of relief and rehabilitation supplies were to be paid into an account under the Agent-General's control. After consulting with the Korean Commission, the Agent-General was to use these funds only for appropriate additional relief and rehabilitation activities in Korea, for local currency expenses of the United Nations relief and rehabilitation operations or for anti-inflation measures.

The representative of Mexico said that, from the very outset, he had expressed concern at the proposal that goods contributed for relief could be sold by the Agent-General. If the sale of relief supplies were permitted, he argued, there would be inevitable discrimination between the various income groups of the population. Nor could he see how the proceeds from the sale of supplies could possibly be used to combat inflation, as was suggested by the Secretary-General's amendment, since one of the most effective ways of combating inflation, in the opinion of the Mexican representative, was to decrease the amount of money in circulation and thus curtail the purchasing power of the population. He orally proposed an amendment designed to safeguard free distribution of relief supplies.

The representative of Australia said that the point raised by Mexico was an extremely important one. It might seem strange to the contributors if the supplies they donated were afterwards sold and became subject to the normal process of profit. It was nevertheless inevitable and even desirable that some of the supplies sent to Korea should be sold. The sale would provide a channel for distribution, which might otherwise be difficult to find. It would also withdraw some of the purchasing power from the community into the hands of the administration, and thus help to combat inflation. He was sure, however, that the Agent-General would act with extreme discretion and do his utmost to avoid any public misunderstandings regarding the sale of relief supplies.

After further discussion, the Mexican text as proposed orally, and amended orally by Chile, was adopted by 37 votes to none, with 5 abstentions. It provided for the sale of relief supplies only in justified cases and under conditions agreed upon with the Korean Commission.

Another oral amendment by the representative of the United States, providing for the addition of a new paragraph to invite non-member countries to participate in financing the programme of relief and rehabilitation in Korea, was accepted by the Committee.

The draft resolution as a whole proposed by the Economic and Social Council (A/1493), as amended, was then adopted by 35 votes to none, with 5 abstentions (for text, see below).

The representative of the USSR said that his delegation, although in favour of the principle of relief and rehabilitation of Korea, had abstained from voting on even minor amendments to the Council draft resolution because it was opposed to the general tenor of the resolution as a whole. It contained several provisions which were completely unacceptable to his delegation.

The report (A/1567) of the Joint Second and Third Committee on the problem of the independence of Korea and plans for relief and rehabilitation of Korea, together with the accompanying draft resolution, was considered by the General Assembly at its 314th plenary meting on 1 December.

The representatives of Czechoslovakia, the Ukrainian SSR and the USSR spoke in opposition to the draft resolution. They declared that the reference to the alleged aggression of the armed forces of North Korea was incorrect. What was really taking place in Korea was United States aggression against the Korean people. The draft resolution excluded the possibility of large-scale participation by representatives of the Korean people in preparing plans and re-establishing the national economy of Korea. It gave the Agent-General extremely wide powers in deciding questions relating to economic rehabilitation. If adopted, the draft resolution would, they maintained, promote further interference in the internal affairs of Korea.

The representative of the United States declared that the draft resolution before them merely recorded what had already, in fact, been decided upon. He stated, among other things, that the United Nations Commission on Korea, which had military observers on the scene at the time of the outbreak of hostilities in Korea, reported to the Security Council that aggression had, in fact, taken place, and that it came from the North. He then outlined the various steps taken by different organs of the United Nations. He stressed the fact that the arguments brought forward by the representatives of Czechoslovakia, the Ukrainian SSR

and the USSR were previously advanced and exhaustively considered; they were rejected by an overwhelming majority of the Members of the United Nations. He went on to say that it appeared clear that the United Nations was then faced not only with North Korean aggression but also with intervention by Chinese communist forces.

Speaking in support of the Committee's draft resolution, the representative of Chile said that adoption of the draft by the Assembly would constitute: (1) a confirmation of the will of the United Nations to reconstruct and rehabilitate Korea and (2) a proof that the United Nations has had no other objective in intervening in Korea than to fulfil the principles of the Charter and ensure the well-being of the people of Korea, within the framework of those principles.

The USSR, supported by Czechoslovakia and the Ukranian SSR, submitted amendments (A/1579) proposing: (1) the deletion of the references in the draft resolution to the need for relief and rehabilitation in the light of aggression by North Korean forces (the USSR maintained that the devastation visited upon Korea was the direct result of United States aggression); and (2) the deletion of the reference in the draft resolution to authorize the Agent-General to enter into agreements regarding measures affecting the distribution and utilization in Korea of supplies and services furnished. (The USSR contended that the latter provision would allow foreign interference in the internal affairs of Korea.)

The first USSR amendment (A/1579) was rejected by a roll-call vote of 50 to 5, with 1 abstention. The second USSR amendment (A/1579) was rejected by 47 votes to 5.

Resolution A on "Relief and Rehabilitation of Korea" (A/1567) was adopted by 51 votes to none, with 5 abstentions. Resolution B on "Relief and Rehabilitation of Korea: Financial Arrangements" was adopted by 51 votes to none, with 5 abstentions. Their texts (410A & B (V)) read as follows:

The General Assembly,

Having regard to its resolution of 7 October 1950 on the problem of the independence of Korea,

Having received and considered a report of the Economic and Social Council submitted in accordance with that resolution,

Mindful that the aggression by North Korean forces and their warfare against the United Nations seeking to restore peace in the area has resulted in great devastation and destruction which the Korean people cannot themselves repair,

Recognizing that as a result of such aggression the people of Korea are desperately in need of relief supplies and materials and help in reconstructing their economy,

Deeply moved by the sufferings of the Korean people and determined to assist in their alleviation,

Convinced that the creation of a United Nations programme of relief and rehabilitation for Korea is necessary both to the maintenance of lasting peace in the area and to the establishment of the economic foundations for the building of a unified and independent nation,

Considering that, under the said resolution of 7 October 1950, the United Nations Commission for the Unification and Rehabilitation of Korea is the principal representative of the United Nations in Korea and hence must share in the responsibility for the work undertaken by the United Nations in furtherance of the objects and purposes mentioned in the said resolution,

Considering that it is nevertheless desirable to set up a special authority with broad powers to plan and supervise rehabilitation and relief and to assume such functions and responsibilities related to planning and supervision, to technical and administrative matters, and to questions affecting organization and implementation as are to be exercised under the plans for relief and rehabilitation approved by the General Assembly, such authority to carry out its responsibilities in close co-operation with the Commission,

A. ESTABLISHMENT OF THE UNITED NATIONS KOREAN RECONSTRUCTION AGENCY FOR THE RELIEF AND REHABILITATION OF KOREA

1. Establishes the United Nations Korean Reconstruction Agency (UNKRA) under the direction of a United Nations Agent-General, who shall be assisted by one or more deputies. The Agent-General shall be responsible to the General Assembly for the conduct (in accordance with the policies established by the General Assembly and having regard to such general policy recommendations as the United Nations Commission for the Unification and Rehabilitation of Korea may make) of the programme of relief and rehabilitation in Korea, as that programme may be determined from time to time by the General Assembly;

2. Authorizes the United Nations Commission for the Unification and Rehabilitation of Korea:

(a) To recommend to the Agent-General such policies concerning the United Nations Korean Reconstruction Agency's programme and activities as the Commission may consider necessary for the effective discharge of the Commission's responsibilities in relation to the establishment of a unified, independent and democratic government in Korea;

(b) To determine, after consultation with the Agent-General, the geographical areas within which the Agency shall operate at any time;

(c) To designate authorities in Korea with which the Agent-General may establish relationships; and to advise the Agent-General on the nature of such relationships;

(d) To take such steps as may be needed to support the Agent-General in fulfilling his task in accordance with the policies established by the General Assembly for relief and rehabilitation;

(e) To consider the reports of the Agent-General to the General Assembly and to transmit any comments

thereon to the Economic and Social Council and the General Assembly;

(f) To call for information on those aspects of the work of the Agent-General which the Commission may consider necessary for the proper performance of its work;

3. Authorizes the Commission to consult from time to time with the Agent-General in regard to the provisional programme adopted by the General Assembly on the recommendation of the Economic and Social Council and especially with regard to the adequacy of that programme to meet the needs of Korea as defined in the statement of general policy, and to make recommendations thereon to the Economic and Social Council;

4. Directs the Agent-General:

(a) To co-ordinate his programme with measures taken by the United Nations Commission for the Unification and Rehabilitation of Korea to carry out the recommendations of the General Assembly relating to the establishment of a unified, independent and democratic government in Korea, and to support the Commission in fulfilling this task;

(b) To commence the operation of the programme in Korea at such time as may be agreed upon by the United Nations Unified Command, the United Nations Commission for the Unification and Rehabilitation of Korea and the Agent-General;

(c) To consult with and generally be guided by the advice of the United Nations Commission for the Unification and Rehabilitation of Korea on the matters set forth under paragraph 2 (a) and be governed by its advice on the matters covered in paragraphs 2 (b) and 2 (c);

5. Further directs the Agent-General, in the carrying out of his functions:

(a) To ascertain, after consultation with the designated authorities in Korea, the requirements for supplies and services for relief and rehabilitation made necessary by the consequences of armed conflict in Korea;

(b) To provide for the procurement and shipment of supplies and services and for their effective distribution and utilization within Korea;

(c) To consult with and assist the appropriate authorities in Korea with respect to measures necessary for the rehabilitation of the Korean economy and the effective distribution and utilization within Korea of supplies and services furnished:

(d) To submit reports to the General Assembly through the Secretary-General, transmitting copies simultaneously to the United Nations Commission for the Unification and Rehabilitation of Korea, and to the Economic and Social Council;

(e) To be guided in matters of administration, to the extent consistent with the special requirements of the programme, by the rules and regulations established for the operation of the Secretariat of the United Nations; Specifically he shall:

(1) Select and appoint his staff in accordance with general arrangements made in agreement with the Secretary-General, including such of the staff rules and regulations of the United Nations as the Agent-General and the Secretary-General shall agree are applicable;

(2) Utilize, wherever appropriate, and within budgetary limitations, the existing facilities of the United Nations;

(3) Establish, in consultation with the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions, and in agreement with the Advisory Committee established under paragraph 6 below, financial regulations for the United Nations Korean Reconstruction Agency;

(4) Arrange, in consultation with the Advisory Committee on Administrative and Budgetary Questions, for the rendering and audit of the accounts of the Agency under procedures similar to those applicable to the rendering and audit of the accounts of the United Nations;

6. Establishes an Advisory Committee consisting of representatives of five Member States[68] to advise the Agent-General with regard to major financial, procurement, distribution and other economic problems pertaining to his planning and operations. The Committee shall meet on the call of the Agent-General but not less than four times a year. The meetings of the Committee shall be held at the Headquarters of the United Nations except in special circumstances, when the Committee, after consultation with the Agent-General, may meet elsewhere if it deems that this would be essential to the proper performance of its work. The Committee shall determine its own methods of work and rules of procedure;

7. Requests the Secretary-General, after consulting the United Nations Commission for the Unification and Rehabilitation of Korea and the Advisory Committee, to appoint the United Nations Agent-General for Korean Reconstruction, and authorizes the Agent-General to appoint one or more Deputy Agents-General in consultation with the Secretary-General;

8. Authorizes the Secretary-General to establish a special account to which should be credited all contributions in cash, kind or services, the resources credited to the account to be used exclusively for the programme of relief and rehabilitation and administrative expenses connected therewith; and directs the Secretary-General to make cash withdrawals from the acount upon request of the Agent-General. The Agent-General is authorized to use contributions in kind or services at his discretion;

9. Recommends that the Agent-General in carrying out his functions:

(a) Make use at his discretion of facilities, services and personnel that may be available to him through existing national and international agencies and organizations both governmental and non-governmental;

(b) Consult with the Secretary-General and the heads of the specialized agencies before appointing his principal subordinate personnel in their respective fields of competence;

(c) Make use of the advice and technical assistance of the United Nations and the specialized agencies and, where appropriate, request them to undertake specific projects and special tasks either at their own expense or with funds made available by the Agent-General;

(d) Maintain close contact with the Secretary-General for the purpose of ensuring fullest co-ordination of

[68] At the 326th plenary meeting on 15 Dec. 1950, the General Assembly, on the nomination of the President, elected the following States Members to serve on the Advisory Committee established under the terms of paragraph 6 of section A of the above resolution: Canada, India, the United Kingdom, the United States and Uruguay.

efforts of the organs of the United Nations and the specialized agencies in support of the programme;

10. Authorizes the Agent-General to enter into agreements with such authorities in Korea as the United Nations Commission for the Unification and Rehabilitation of Korea may designate, containing terms and conditions governing measures affecting the distribution and utilization in Korea of the supplies and services furnished, in accordance with the statement of general policy on Korean relief and rehabilitation contained in section B of the present resolution;

11. Requests the Secretary-General to make available to the maximum extent possible, and subject to appropriate financial arrangements, such facilities, advice and services as the Agent-General may request;

12. Requests the specialized agencies and non-governmental organizations to make available to the maximum extent possible, and subject to appropriate financial arrangements, such facilities, advice and services as the Agent-General may request;

13. Requests the Economic and Social Council to review the reports of the Agent-General and any comments which the United Nations Commission for the Unification and Rehabilitation of Korea may submit thereon, and such other data as may be available on the progress of relief and rehabilitation in Korea and to make appropriate reports and recommendations thereon to the General Assembly;

14. Calls upon all governments, specialized agencies and non-governmental organizations, pending the beginning of operations by the United Nations Korean Reconstruction Agency, to continue to furnish through the Secretary-General such assistance for the Korean people as may be requested by the Unified Command;

15. Invites countries not Members of the United Nations to participate in financing the programme of relief and rehabilitation in Korea;

B. STATEMENT OF GENERAL POLICY ON RELIEF AND REHABILITATION IN KOREA

16. Approves the following statement of general policy:

1. The United Nations programme of relief and rehabilitation in Korea is necessary to the restoration of peace and the establishment of a unified, independent and democratic government in Korea.

2. To this end, it is the objective of the United Nations to provide, subject to the limit of the resources placed at its disposal for this purpose, relief and rehabilitation supplies, transport and services, to assist the Korean people to relieve the sufferings and to repair the devastation caused by aggression, and to lay the necessary economic foundations for the political unification and independence of the country.

3. The United Nations programme of relief and rehabilitation for Korea shall be carried out in practice in such a way as to contribute to the rapid restoration of the country's economy in conformity with the national interests of the Korean people, having in view the strengthening of the economic and political independence of Korea and having in view that, in accordance with the general principles of the United Nations, such assistance must not serve as a means for foreign economic and political interference in the internal affairs of Korea and must not be accompanied by any conditions of a political nature.

4. The United Nations programme is to be a supplement to the general recovery effort that will be undertaken by the Korean people on their own initiative and responsibility, through the most effective utilization of their own resources as well as of the aid which is rendered under the programme.

5. Whilst the programme should be consistent with the pattern of long-term economic development in Korea, it is itself necessarily limited to relief and rehabilitation, and contributions and supplies furnished under this programme shall be used exclusively for that purpose.

6. First priority shall be given to the provision of the basic necessities of food, clothing and shelter for the population of Korea and measures to prevent epidemics. Second highest priority shall be given to projects which will yield early results in the indigenous production of basic necessities; this will include the reconstruction of transport and power facilities. As the programme develops, emphasis should be shifted to the provision of other materials, supplies and equipment for the reconstruction or replacement of war-damaged facilities necessary to the economic life of the country.

7. The necessary measures shall be taken to ensure that distribution shall be so conducted that all classes of the population shall receive their equitable shares of essential commodities without discrimination as to race, creed or political belief.

8. Subject to adequate control, the distribution of supplies shall be carried out, as appropriate, through public and co-operative organizations, through non-profit-making voluntary organizations such as the Red Cross, and through normal channels of private trade. At the same time, measures shall be taken to ensure that the cost of distribution and the profit from the sale of supplies are kept to the minimum. Measures shall be taken to ensure that the special needs of refugees and other distressed groups of the population are met through appropriate public welfare programmes, and accordingly the sale of relief supplies will take place only in justifiable cases and under conditions agreed upon with the United Nations Commission for the Unification and Rehabilitation of Korea.

9. The local currency proceeds derived from the sale of relief and rehabilitation supplies or, at the discretion of the Agent-General, an amount commensurate with the value of goods and services supplied, shall be paid into an account under the control of the Agent-General. The Agent-General, after consultation with the United Nations Commission for the Unification and Rehabilitation of Korea, and in agreement with the Advisory Committee referred to in paragraph 6 of section A of the present resolution, shall use these funds for appropriate additional relief and rehabilitation activities within Korea, for the local currency expenses of the relief and rehabilitation operations of the United Nations, or for measures to combat inflation. The proceeds shall not be used for any other purpose.

10. The necessary economic and financial measures shall be taken by the authorities in Korea to ensure that the resources provided under the United Nations programme, as well as Korean resources, are effectively employed to aid in laying the economic foundations of the country. Among these, special attention

should be given to measures to combat inflation, to sound fiscal and monetary policies, to the requisite pricing, rationing and allocation controls (including the pricing of goods imported under the programme), to the prudent use of Korean foreign exchange resources together with promotion of exports, and to the efficient management of government enterprise.

11. Import taxes shall not be imposed on relief and rehabilitation supplies received under the United Nations programme.

12. The authorities in Korea should maintain such records and make such reports on the receipt, distribution and use of relief and rehabilitation supplies as may be determined by the Agent-General after consultation with them.

13. All authorities in Korea shall freely permit the personnel of the United Nations to supervise the distribution of relief and rehabilitation supplies, including the examination of all storage and distribution facilities as well as records.

14. The personnel of the United Nations shall be accorded within Korea the privileges, immunities and facilities necessary for the fulfilment of their function.

15. All authorities in Korea and the Secretary-General shall use their best efforts to inform the people of Korea of the sources and purposes of the contributions of funds, supplies and services.

16. In determining Korea's needs for relief and rehabilitation, in drawing up programmes and plans, and in implementing such programmes and plans, the Agency created to administer the relief and rehabilitation programme should consult with and utilize, to the greatest extent feasible, the services of Korean authorities.

B

The General Assembly

1. Requests the President to appoint a Negotiating Committee[69] composed of seven or more members for the purpose of consulting, as soon as possible during the current session of the General Assembly, with Member and non-member States as to the amounts which governments may be willing to contribute towards the financing of the programme for the relief and rehabilitation of Korea;

2. Authorizes the Negotiating Committee to adopt procedures best suited to the accomplishment of its task, bearing in mind:

(a) The need for securing the maximum contribution in cash;

(b) The desirability of ensuring that any contribution in kind is of a nature which meets the requirements of the contemplated programmes; and

(c) The degree of assistance which can be rendered by specialized agencies, non-member States and other contributors:

3. Requests that, as soon as the Negotiating Committee has ascertained the extent to which Member States are willing to make contributions, all delegations be notified accordingly by the Secretary-General in order that they may consult with their governments;

4. Decides that, as soon as the Negotiating Committee has completed its work, the Secretary-General shall, at the Committee's request, arrange, during the current session of the General Assembly, an appropriate meeting of Member and non-member States at which Members may commit themselves to their national contributions and the contributions of non-members may be made known.

7. Complaint of Air Bombing of China

By cablegram dated 28 August 1950 (S/1772), addressed to the Secretary-General, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China charged that, on 27 August, military aircraft of the United States in Korea had flown over Chinese territory on the right bank of the Yalu River, had strafed buildings, railways stations and railway carriages and killed or wounded a number of persons.

Those provocative acts, it was stated, were a serious encroachment on Chinese sovereignty and constituted an attempt to extend the war. It was proposed that the Security Council should condemn the United States aggression forces in Korea for those acts and take steps to bring about the complete withdrawal of all United States forces from Korea, to prevent the aggravation of the situation and to facilitate the peaceful regulation of the Korean question by the United Nations.

In a letter dated 29 August (S/1727), the representative of the United States informed the Secretary-General that the instructions under which aircraft were operating under the Unified Command in Korea strictly prohibited them from crossing the Korean frontier into adjacent territory. No evidence had been received to indicate, the letter stated, that these instructions had been violated, and the United States Government would welcome an investigation on the spot by a commission appointed by the Security Council. Finally, it was pointed out that the action being taken by the United States and other Members of the United Nations in Korea was being conducted in accordance with and under the mandate of the United Nations.

In another cablegram, dated 30 August (S/1743), the Minister for Foreign Affairs of the People's Republic of China charged that United States military aircraft had again flown over Chinese territory on 29 August, and had killed or wounded a number of people.

[69] In accordance with the terms of the above resolution, the President of the General Assembly, at the 318th plenary meeting on 4 Dec. 1950, announced that he had appointed a Negotiating Committee, composed of the following States Members: Canada, Egypt, France, India, the United Kingdom, the United States and Uruguay.

The item was included by the President in the provisional agenda of the Security Council's 493rd meeting on 31 August.

a. CONSIDERATION BY THE SECURITY COUNCIL

During the discussion on the adoption of the agenda, the representative of the USSR stated that the two cablegrams from the Central People's Government of the People's Republic of China had shown that the United States Air Force had invaded Chinese air space, dropped bombs and machine-gunned the peaceful population, thus committing a gross violation of the sovereignty and territorial integrity of China. From the standpoint of international law, that was an act of aggression. The representative of the USSR then referred to a definition of aggression which, he said, had been approved in May 1933, by the Committee on Security Questions of the League of Nations. According to that definition, it was stated, the aggressor in an international conflict would be considered that State which was the first to commit one of the acts of aggression detailed in the definition. Those acts, it was said, included "bombarding of the territory of another State by a State's land, naval or air forces", and the "landing in, or introduction within the frontiers of another State of land, naval or air forces without the permission of the government of such a State". The same definition of aggression further stated: "no consideration whatsoever of a political, strategical or economic nature . . . shall be accepted as justification of aggression". The action of the air forces of the United States against the territory of China, it was asserted, fell entirely within that definition of aggression. Thus, the Government which had permitted that aggression was the aggressor. As the main organ of the United Nations for the maintenance of peace and security, the representative of the USSR maintained, the Security Council must consider the matter without delay and adopt appropriate decisions. He, therefore, submitted the following draft resolution (S/1745/Rev.1):

The Security Council,

Having considered the communications dated 27 August 1950 and 29 August 1950 addressed to the Security Council by the Central People's Government of the People's Republic of China and relating to the violation by the air forces of the United States of America of the Chinese frontiers in the area of the Korean-Manchurian border and the bombing and strafing by United States aircraft of buildings, railway stations and an aerodrome on Chinese territory resulting in loss of life and damage to railway and aerodrome installations, railway rolling stock and motor vehicles, and

Having heard the explanation of the representative of the United States of America to the United Nations,

Condemning the above-mentioned illegal acts of the Government of the United States of America, and placing on the Government of the United States of America full responsibility for the above-mentioned acts and the whole of the damage caused to the People's Republic of China, and also for all the consequences that may arise as the result of such acts,

Decides to call upon the Government of the United States of America to prohibit such illegal acts which violate Chinese sovereignty and cause damage to the People's Republic of China and to the peaceful Chinese population.

The representative of the United Kingdom stated that the statement of the USSR representative had assumed that the charges were true even though no investigation had been made. This was in order to create the maximum of tension between the People's Republic of China and the United States. He said, in conclusion, that the Council should investigate the matter and try to establish facts.

The representative of the United States said that the Unified Command had issued strict instructions to confine the operations of aircraft to the territory of Korea. As soon as the complaints had been received, the United States military authorities had been instructed to make an investigation and late reports had indicated that, by mistake, one aircraft might have strafed a Chinese air strip on 27 August. The Security Council, the United States Government believed, should send a Commission to the area in order to make an objective investigation of the charges. United States military authorities would give the commission full co-operation, including access to pertinent records. If it were found that an attack did in fact occur, the United States Government was prepared to make payment to the Secretary-General for transmission to the injured parties, of such damages as the commission might find fair and equitable. The United States would also see to it that appropriate disciplinary action was taken.

At the request of the representative of the United States, a copy of this statement was transmitted to the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China.

The representative of China opposed the inclusion of the complaint in the agenda, since, according to him, it was not based on any prima jade case and was submitted by a body not properly qualified to make a complaint to the Council.

The Security Council decided, by 8 votes to 3 (China, Cuba, Egypt), to include the item in its

agenda under the title "Complaint of bombing by air forces of the territory of China".

At the 497th meeting on 7 September, the representative of the United States submitted the following draft resolution (S/1752):

The Security Council

1. Decides to establish a Commission to investigate on the spot and report as soon as possible with regard to the allegations contained in documents S/1722 and S/1743. The Commission shall be composed of two representatives appointed, one by the Government of India, and one by the Government of Sweden.

2. Requests all Governments and authorities to provide safe conduct and all facilities requested by the Commission.

3. Requests the Unified Command to provide to the Commission upon its request all facilities and information including access to all pertinent records.

4. Requests the Secretary-General to provide the Commission with all assistance and facilities required by it.

In a cablegram dated 10 September (S/1776) the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China stated that, as the sole legal government representing the Chinese people and as the accuser in the case, his Government had the right and necessity to send its delegation to attend and participate in the proceedings of the Security Council. He said that if the Security Council should proceed with the agenda item without the attendance and participation in the discussion of the representative of the People's Republic of China, its resolutions would be illegal, null and void.

On 11 September, the Council considered a USSR proposal (S/1759), submitted on 5 September for an invitation to a representative of the People's Republic of China. The representative of the USSR considered that any State which approached the Security Council with a communication about aggression should be heard during the consideration of that communication. In support of that proposal, it was argued, inter alia, that the sense of Article 32 of the Charter was that both parties to a dispute must be represented in the Security Council and heard, whether or not either of them were members of the Security Council or of the United Nations. The proposal to invite a representative of the People's Republic of China was supported by representatives of France, India, Norway, United Kingdom and Yugoslavia.

The USSR proposal was opposed by the representatives of China, Cuba, Ecuador and the United States who argued, broadly speaking, that Article 32 was inapplicable, since China was a member of the Security Council. The Article, it was stated, referred to any Member of the United Nations which is not a member of the Security Council or any State which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council. Furthermore, it was argued, there was no dispute, since the party which had made the mistake had declared that it was ready to make compensation. It was stated that a mistake had been made when several Members of the United Nations were engaged in suppressing a breach of the peace at the call of the Organization. If the Council, it was argued, should place unnecessary obstacles in the path of States performing duties entrusted to them by the Organization, the Charter would be made unworkable. These representatives felt that debate on the merits of the case without fact-finding would lead to abuse of the Council for propaganda purposes which, it was suggested, was the principal motive of the USSR in bringing this complaint before the Council. The representatives of the People's Republic of China could, these representatives said, present what evidence they cared to advance to an impartial investigating commission and, after the commission had submitted its findings the Council could decide whether it wished to invite a representative from Peking under rule 39.

At the 499th meeting of the Council on 11 September, the USSR proposal to invite a representative of the People's Republic of China was put to the vote. There were 6 votes in favour, 3 against (China, Cuba, the United States), and 2 abstentions (Ecuador, Egypt). The proposal was not adopted, having failed to receive seven affirmative votes.

On 12 September, at its 501st meeting, the Council concluded its consideration of the United States draft resolution proposing the establishment of a commission of investigation (S/1752) and of the USSR proposal seeking condemnation of the United States (S/1745/Rev.1) (see above).

In support of the United States proposal the representative of Ecuador argued that, in seeking to avoid a dispute or conflict, the United States Government had taken a fair and reasonable position. It had proposed a commission of investigation to be despatched without delay to make an enquiry on the spot. It had further declared its readiness to pay such compensation as the commission might consider fair and equitable. These facts, it was stated, should not be the subject of political controversy, but of genuine enquiry. The proposed membership of the commission was a guarantee that it would inspire confidence in each of the parties owing to the high moral standing,

the impartiality and the peaceful international policy characteristic of India and Sweden and of the fact that both Governments maintained friendly relations with the Peking Government. It was to be assumed, he said, that the commission would ask the requisite permission of the Peking Government to carry out the necessary investigation. He expressed the hope that the Peking Government would not refuse this permission since the proposed investigation was in consequence of its own complaint. The establishment of such a commission would be a proof of good will and of the fact that the United Nations did not wish any people to suffer without cause from the consequences of the police action made necessary by the invasion of the Republic of Korea.

Opposing the United States proposal, the representative of the USSR argued that it was not possible to send a commission to China, without first discussing the matter with a representative of the People's Republic of China or asking for the consent of the legal Government of that country. It could not be maintained, he said, that the Security Council did not have any facts about the bombing of Chinese territory by United States aircraft, since the facts were clearly stated in the cablegrams of 28 and 30 August from the Foreign Minister of the People's Republic of China. If the United States representative had not stood in the way of inviting the representative of the People's Republic of China, the Council would have had the facts and would have proceeded long ago with the consideration of the substance of the question. Moreover, it was maintained, there was no need to set up the proposed commission of investigation in view of the admission that United States aircraft violated the Chinese air space. In refusing to hear the representative of the People's Republic of China and in insisting that a Commission should be sent to China, the United States Government was, the USSR representative stated, pursuing hidden and hostile objectives with regard to the People's Republic of China. It was seeking to sidetrack the Council from the detailed consideration of the question, to prolong the question and to bury it by referring it to a commission. The United States, it was said, was also attempting through the secretariat of the proposed commission if not through its members, to send its own trusted representatives to make a spying reconnaissance of the situation in China. If the Security Council refused the request of the Government of the People's Republic of China to send a representative, that Government would be justified in refusing to abide by the decision of the Council. The United States Government had not denied that the United States Air Force had violated Chinese air space. The Security Council therefore must condemn those illegal acts and place on the United States Government the entire responsibility for all the damage sustained and for any consequences which might result from such acts.

The representative of India stated that, if the Council should adopt the United States draft resolution the Government of India would nominate a suitable representative. However, he felt that the commission could not function usefully without the co-operation of the Government of the People's Republic of China. With regard to the USSR draft resolution, he stated that he would oppose the first part of that draft resolution since it sought to condemn without investigation. The second part, he stated, was unnecessary, since the United States representative had said that aircraft operating under the Unified Command had strict instructions not to cross the Korean frontiers. He would not vote for the United States draft resolution, since India might be deemed to have an interest in it.

The representative of China considered that it was a mistake for the Council to have admitted the item on its agenda. He would therefore not participate in the voting on either of the two draft resolutions.

The United States draft resolution received 7 votes in favour, 1 against (USSR) with 2 abstentions (India, Yugoslavia) and 1 member (China) not participating. It was not adopted as the dissenting vote was cast by a permanent member.

The USSR draft resolution was rejected by 8 votes to 1 (USSR), with 1 abstention (Yugoslavia) and 1 member not participating (China).

b. COMPLAINT BY THE USSR REGARDING THE VIOLATION OF CHINESE Am SPACE BY THE AIR FORCE OF THE UNITED STATES AND THE MACHINE-GUNNING AND BOMBING OF CHINESE TERRITORY BY THAT AIR FORCE, AND AGAINST THE BOMBARDMENT AND ILLEGAL INSPECTION OF A MERCHANT SHIP OF THE PEOPLE'S REPUBLIC OF CHINA BY A MILITARY VESSEL OF THE UNITED STATES

In a cablegram (A/1415)[70] dated 24 September 1950, addressed to the Secretary-General for transmission to the President of the General As-

[70] Also issued as S/1808.

sembly and to the President of the Security Council, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China charged that, on 22 September, military aircraft of the United States forces had flown over Chinese territory and dropped bombs on the city of Antung, causing damage to property and wounding a number of people. He noted that, although the majority in the Security Council had agreed to include the accusation of the People's Republic of China in the agenda, they had refused to have his Government's representative present in the Council to state his case and participate in the discussion of the complaints concerning violations of Chinese air space by United States aircraft which had been submitted to the Council in communications dated 28 and 30 August.[71] The Central People's Government of the People's Republic of China demanded that the General Assembly should:

(1) include in its agenda the complaint of the People's Republic of China against the flights of United States military aircraft over Chinese territory and the strafing and bombing which had caused casualties and property damage;

(2) invite the representatives of the People's Republic of China to state their case and participate in the discussion;

(3) recommend that the Security Council should take effective measures to condemn the aggressive crimes of the United States and bring about promptly the withdrawal of the United States forces in Korea, so that peace in the Far East and the world might be restored.

In a letter (S/1813) dated 26 September, the United States informed the Security Council that a report from the United States Air Force indicated that one of its planes in the service of the United Nations might inadvertently have violated Chinese territory and dropped bombs in the vicinity of Antung on 22 September. The United States deeply regretted any violations of Chinese territory and any damage which might have occurred. It remained willing to assume responsibility and pay compensation through the United Nations for any damages which an impartial investigation on the spot might show to have been caused by United States planes.

By a letter (A/1416) dated 29 September, addressed to the President of the General Assembly, the USSR expressed its support for the request of the Central People's Government of the People's Republic of China, contained in the telegram of 24 September. The USSR requested that a meeting of the General Committee of the General Assembly be convened to consider the question of the inclusion in the agenda of the fifth regular session of the Assembly of the above-mentioned proposal of the Central People's Government of the People's Republic of China. An explanatory note (A/1419), submitted by the USSR, followed this request.

In a cablegram (A/1410) dated 27 September, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China charged that, on 21 September, a Chinese merchant ship on the high seas had been fired at by a United States destroyer, obliged to stop and forcibly inspected. He requested that this complaint should be included in the agenda of the General Assembly, together with the charges contained in the cablegram (A/1415), dated 24 September.

At the 71st meeting of the General Committee on 5 October, the USSR agreed itself to propose the inclusion of an item based on the requests contained in the telegrams referred to (A/1415 & A/1410). It was decided at that meeting to recommend the inclusion of an item in the agenda under the heading: "Complaint by the USSR regarding the violation of Chinese air space by the air force of the United States and the machine-gunning and bombing of Chinese territory by that air force and against the bombardment and illegal inspection of a merchant ship of the People's Republic of China by a military vessel of the United States".

The General Assembly, by 43 votes to 1, with 2 abstentions, approved this recommendation at its 294th plenary meeting on 7 October, and referred the item to the Ad Hoc Political Committee. At its 313th plenary meeting on 1 December, the General Assembly decided to transfer the item from the Ad Hoc Political Committee to the First Committee.

No further action was taken on this item during 1950.[72]

8. Complaint of Armed Invasion of Taiwan (Formosa)

a. CONSIDERATION BY THE SECURITY COUNCIL

In a cablegram dated 24 August 1950 (S/1715), addressed to the President of the Security Council, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China stated that, on 27 June, President Truman had announced the deci-

[71] See p. 283.

[72] The First Committee of the General Assembly discussed this item in Feb. 1951.

sion of the United States Government to prevent by armed force the liberation of Taiwan by the Chinese People's Liberation Army. The United States Seventh Fleet had moved toward the Strait of Taiwan and contingents of the United States Air Force had arrived in Taiwan. This action was a direct armed aggression on the territory of China and a total violation of the Charter. The fact that Taiwan was an integral part of China was based on history and confirmed by the situation existing since the surrender of Japan. It was also stipulated in the Cairo Declaration of 1943 and the Potsdam communiqué of 1945 which the United States had pledged itself to observe. The Central People's Government of the People's Republic of China considered that, to maintain international peace and security and to uphold the dignity of the Charter, it was the duty of the Security Council to condemn the United States Government for its armed invasion of the territory of China and to take immediate measures to bring about the complete withdrawal of all the United States invading forces from Taiwan and from other territories belonging to China.

In a letter dated 25 August (S/1716), the representative of the United States replied that President Truman's statements of 27 June and 19 July, and the facts to which they related, made it clear that the United States had not encroached on the territory of China nor taken aggressive action against that country. The United States action in regard to Formosa had been taken at a time when the island was the scene of conflict with the mainland and more serious conflict was threatened by the public declaration of the Chinese communist authorities. Such conflict would have threatened the security of the United Nations forces operating in Korea under the mandate of the Security Council to repel the aggression on the Republic of Korea. The United States action was an impartial, neutralizing action, addressed both to the forces on Formosa and to those on the mainland. It was designed to keep the peace and was not inspired by any desire to acquire a special position. It had been expressly stated to be without prejudice to the future political settlement of the status of Formosa. Like other territory taken from Japan by the victory of the Allied Forces, its legal status could not be fixed until there was international action to determine its future. The Chinese Government had been asked by the Allies to take the surrender of the Japanese forces on the island, and that was the reason the Chinese were there. The United States would welcome United Nations consideration of the case of Formosa, and would approve full United Nations investigation at Headquarters or on the spot.

The item was included in the provisional agenda of the 492nd meeting of the Security Council on 29 August, under the title "Statement of the Central People's Government of the People's Republic of China, concerning armed invasion of the territory of China by the Government of the United States of America and concerning violation of the Charter of the United Nations".

The representative of the United States said that he would vote for the inclusion of the item in the agenda if it were amended to read "Complaint regarding Formosa". The representative of China considered that when a question was placed on the agenda of the Security Council, there must be at least some prima facie case. His Government, he asserted, was in effective control of Taiwan, but it knew of no aggression by the United States and had no complaint to make. The United States, it was stated, had made no territorial demand or demands for economic concessions or for political privileges on Taiwan.

He felt that the question had been raised to divert attention of the world from the real aggressors. He quoted from official statements of the Central People's Government of the People's Republic of China and analysed post-war developments to indicate its character. He maintained that it had resulted from a rebellion against the legal central Government of China and had reached its present status through the interference of the USSR. The representative of China objected to the inclusion of the item in the agenda and submitted that the Council should study the preliminary question of the real origin and character of the Peking régime, and whether its complaint was worthy of consideration.

The representative of the United Kingdom stated that the complaint had been made by a Government which was in physical control of by far the greater part of China. Further, the United States Government had stated that it would welcome United Nations consideration of the case of Formosa. Accordingly, he would agree to the inclusion of the item in the agenda, as rephrased by the United States representative.

Analysing the reply (S/1716) of the United States, the representative of the USSR stated that the Council was not faced with the question of Formosa. The fate of that island, he said, had been decided in accordance with the Cairo Declaration, the Potsdam decisions and the act of surrender of Japan, which had returned the island to China as an integral and inalienable part of its territory.

The question before the Council was of a different nature. As could be seen from the cablegram (S/1715) from the Foreign Minister of the Central People's Republic of China, the United States Government had violated one of the basic provisions of the Charter and had committed a direct act of armed aggression against China, by virtually occupying the island of Taiwan with its naval and air forces. Disregarding the fact that, in accordance with international instruments, that territory belonged to China, the United States Government had decided to invade the island and to declare that the armed forces and authorities of the lawful Government of China, namely that of the People's Republic of China, should be denied access to the island. Thus, he maintained, the Council was concerned not with the question of Formosa, but with an act of aggression committed by the United States Government against an integral part of China. If that item were worded differently on the Council's agenda, it would lose its meaning.

The representative of India supported the inclusion of the item in the agenda and suggested that it be redrafted to read "Complaint of armed invasion of Taiwan (Formosa)".

The Council decided to include in its agenda the item as rephrased by the representative of India by 7 votes to 2 (China, Cuba), with 1 abstention (Egypt) and one member (Yugoslavia) not participating.

One vote (USSR) was cast in favour of including the item in the form in which it had appeared in the provisional agenda.

Subsequently, at the 493rd meeting on 31 August, the representative of Cuba stated that he had voted against the inclusion of the item in the agenda since there was no dispute or controversy involved which might lead to international friction, or still less to an act of aggression. The Cuban delegation, he stated, was aware that the complaint was simply a propaganda manoeuvre to bring the representative of communist China into the Security Council.

At the 492nd meeting of the Council on 29 August, the representative of the USSR proposed the following draft resolution (S/1732):

> The Security Council,
>
> In connexion with the statement of the Central People's Government of the People's Republic of China regarding armed invasion of the Island of Taiwan (Formosa),
>
> Decides:
>
> To invite a representative of the Central People's Government of the People's Republic of China to attend meetings of the Security Council.

The representative of the United Kingdom proposed that the USSR draft resolution be amended by adding the following words at the end: "when the abovementioned matter is under discussion". The USSR draft resolution, as amended by the representative of the United Kingdom, was rejected by 4 votes in favour, 4 against (China, Cuba, Ecuador, United States) and 3 abstentions (Egypt, France, United Kingdom).

On 2 September, the representative of the USSR submitted a draft resolution (S/1757), proposing that the Security Council, considering the statement of the Central People's Republic of China on the item, should (i) condemn the action of the United States as an act of aggression and as intervention in the internal affairs of China; (ii) propose to the Government of the United States that it immediately withdraw all its air, sea and land forces from the island of Taiwan and from other territories belonging to China.

In a cablegram dated 17 September (S/1795), the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China stated that, as the sole legal government representing the Chinese people, and being the accuser in the case, his Government had the right and necessity to send its delegation to attend and participate in the proceedings of the Security Council. He stated that, if the Council should proceed with this agenda item without the attendance and participation of the representative of his Government, its resolutions would be illegal, null and void.

At its 503rd to 506th meetings, from 26 to 29 September, the Council further discussed the question of inviting a representative of the People's Republic of China during the discussion of the item relating to Taiwan. The following views were expressed:

The representative of China noted that, at the request of the USSR, the General Assembly had included in its agenda an item entitled "Complaint by the Union of Soviet Socialist Republics regarding aggression against China by the United States" (see below). A study of the explanatory memorandum (A/1382), submitted in support of the item, showed that it included the so-called invasion of Taiwan by the United States. In view of the provisions of Articles 10 and 12 of the Charter, relating to simultaneous proceedings in the Assembly and the Council, he moved that the Council should cease consideration of this item during its consideration by the Assembly.

The representative of Ecuador submitted an amendment (S/1817/Rev.1) to the Chinese motion. The amendment noted, inter alia:

(i) that without prejudice to the question of the representation of China the Council might invite representatives of the Central People's Government of the People's Republic of China, under rule 39 of the Council's rules of procedure;

(ii) that a USSR complaint regarding United States aggression against the territory of China had been placed on the agenda of the General Assembly.

The operative part of the amendment provided that the Council should

(a) defer consideration of the question until its first meeting held after 1 December 1950;

(b) invite a representative of the Central People's Government of the People's Republic of China to attend the meetings of the Council held after 1 December during the discussion of that Government's declaration (S/1715) regarding an armed invasion of the Island of Taiwan.

After discussion the representative of Ecuador accepted a suggestion of the representative of the United Kingdom that the date in the operative part of the proposal should be changed to 15 November.

The representative of the USSR maintained that in accordance with Article 32 of the Charter, the Council should invite both of the parties to an international conflict which might develop into a threat to international peace and security. He also referred to the Council's established practice to invite representatives of both sides as in the consideration of the Indonesian, Palestine and Kashmir questions.

The representative of Ecuador stated that the Council should give a broad and favourable interpretation to the Charter and the rules of procedure, so that it might consider complaints on the subject relating to international peace and security, even if the complainants are only de jacto Governments. He believed, however, that there was no need for the Council to discuss the question while it was before the General Assembly. He assumed that by 1 December, the Committee which was considering the item would be able to submit its views. At the same time, he said, he could not agree that the matter should be withdrawn from the Council's agenda, or that it would be fair for the Council when it came to consider the question of Formosa, to refuse to hear representatives of the Central People's Government of China.

The representative of the United Kingdom considered that Article 32 of the Charter was inapplicable, but felt that the invitation should be issued under rule 39 of the Council's rules of procedure. The representative of China considered that rule 39 was not applicable either, since his own Government was in effective control of Taiwan, and he claimed that it was the only authority in a position to supply the Council with information it might desire about Taiwan. His Government, he stated, knew of no aggression by the United States and had no complaint to make. The United States Seventh Fleet was present with his Government's consent and, apart from the Seventh Fleet, there were no United States military forces in Taiwan.

The representative of the United States referred to the possibility of the establishment of a representative Commission, which would have broad powers of investigation and would hear all interested parties. He considered that this would be an effective method of evaluating the charges. After the facts had been established, the question of an invitation under rule 39 could be considered by the Council before action is taken. The United States delegation, he said, opposed an invitation at an earlier stage because a debate on the merits of the question, with a representative of the Peking régime seated, would lead to the use of the Council as a propaganda forum.

He suggested that the Ecuadorean proposal deferring the Council's consideration of the item should have priority in voting over the USSR draft resolution.

On 28 September, at its 505th meeting, the Council rejected a motion that the Ecuadorean proposal should have priority over the USSR draft resolution inviting the representative of the People's Republic of China.

At the same meeting, the Council rejected by 6 votes to 2 (China, Cuba), with 3 abstentions (Ecuador, France, United States), the Chinese motion that it should cease consideration of the item relating to Taiwan during its consideration by the Assembly.

The USSR draft resolution (S/1732), as amended by the representative of the United Kingdom, was rejected by 6 votes to 3 (Cuba, China, United States), with 2 abstentions (Ecuador, Egypt).

The Council then voted on the Ecuadorean amendment (S/1817/Rev.1). The operative part of the amendment deferring consideration of the question and inviting a representative of the Central People's Government of China after 1 December received 6 votes in favour, 4 against (China, Cuba, Egypt, United States), with 1 abstention (Yugoslavia). The representative of Yugoslavia stated that he had abstained from voting on the operative part because he was not convinced that

the invitation should be delayed for one month and a half. However, in view of the result of the voting and since he did not see a better way of expressing his desire that the Government of the People's Republic of China should be invited, he wished to change his vote and to vote in favour of the operative part.

The Council took no decision on the question as to whether a change of vote by the representative of Yugoslavia was in order.

On 29 September, at the 506th meeting, the representative of Ecuador reintroduced his proposal as a new draft resolution (S/1823/Corr.1).

The first four paragraphs of the preamble were adopted and the fifth paragraph[73] was rejected: 7 votes were cast in favour of the operative part, and 4 against (China, Cuba, Egypt, United States). Finally the Council voted on the new Ecuadorean draft resolution as a whole (with the omission of the fifth paragraph of the preamble). There were 7 votes in favour and 3 against (China, Cuba, United States), with 1 abstention (Egypt).

The President stated that, in his opinion, the resolution had been adopted. The text of the resolution follows:

The Security Council,

Considering that it is its duty to investigate any situation likely to lead to international friction or to give rise to a dispute in order to determine whether the continuance of such dispute or situation may endanger international peace and security, and likewise to determine the existence of any threat to peace;

That, in the event of a complaint regarding situations or facts similar to those mentioned above, the Council may hear the complainants;

That, in view of the divergency of opinion in the Council regarding the representation of China and without prejudice to this question, it may in accordance with rule 39 of the rules of procedure, invite representatives of the Central People's Government of the People's Republic of China to provide it with information or assist it in the consideration of these matters;

Having noted the declaration of the People's Republic of China regarding the armed invasion of the Island of Taiwan (Formosa); and

Decides

(a) To defer consideration of this question until the first meeting of the Council held after 15 November 1950;

(b) To invite a representative of the said Government to attend the meetings of the Security Council held after 15 November 1950 during the discussion of that Government's declaration regarding an armed invasion of the Island of Taiwan (Formosa).

(1) Discussion of the Legal Effect of the Vote on the Ecuadorian Draft Resolution

The representative of China considered that paragraph (b) of the operative part of the Ecuadorian draft resolution was a question of substance and that his vote against the draft resolution should be considered as a veto. He said that it was for the very contingency of a difference of opinion on this question that the statement made by the delegations of the four sponsoring Powers of the San Francisco Conference on 7 June 1945 had provided for a preliminary vote on the issue whether a question was one of substance or of procedure. This preliminary vote must have the concurring votes of the five permanent members.

After the issues raised by this statement had been discussed at two meetings both held on 29 September, the President asked the Council to vote on the question that the Ecuadorian draft resolution which had been voted upon should be regarded as procedural. Nine votes were cast in the affirmative, one in the negative (China), and there was one abstention (Cuba). The President stated that the proposal that the Ecuadorian draft resolution should be regarded as procedural had been adopted.

The representative of China argued that the vote was regulated by the following provision in the San Francisco Four-Power Declaration: "The decision regarding the preliminary question as to whether or not such a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members". Since the vote just taken had not had the concurring vote of his delegation, the proposal that the matter was procedural had not been adopted. The President replied that a vote which was regarded as procedural by nine members of the Security Council had been pronounced as substantive by one of the permanent members. He considered that, if this situation were allowed to stand, a very grave precedent would have been created, which might impede the whole functioning of the United Nations in the future. Consequently, he ruled that, notwithstanding the objection of the representative of China, the Council's vote on the Ecuadorian draft resolution was procedural.

The representative of China considered that the President's ruling was arbitrary and ultra vires. He suggested that the International Court of Justice should be asked for an advisory opinion on the following question: "In view of the statement of

[73] The fifth paragraph of the draft resolution stated: "Considering further that a complaint submitted by the Union of Soviet Socialist Republics regarding aggression against the territory of China by the United States of America has been placed on the agenda of the fifth session of the General Assembly and has been referred for consideration to the First Committee of the Assembly."

1 June 1945 by the delegations of four sponsoring Governments on voting procedure in the Security Council, and in view of the precedents of the Council, is the claim of the representative of China to veto paragraph (b) of the operative part of the proposal of Ecuador of 29 September 1950 justified?"

The President said that, since his ruling had been challenged, he would put it to the vote. The representative of China replied that it was well known that a matter of this kind was not subject to a presidential ruling. The President then put the challenge to his ruling to the vote. No votes were cast in favour of the challenge and none against, and there were no abstentions. The President said that, since there was no vote in favour of overruling his decision, it stood. The representative of China stated that he had not chosen to participate in a vote which was in itself illegal. He wished to have it recorded that the President's action was arbitrary and that the decisions he had arrived at were illegal and therefore invalid.

By a cablegram dated 2 October, the Secretary-General informed the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China that, on 29 September, the Security Council had decided to invite a representative of that Government to attend meetings of the Security Council held after 15 November during discussion of the complaint of armed invasion of Taiwan (Formosa).

The Central People's Government of the People's Republic of China, in a cablegram dated 23 October, accepted the invitation decided upon by the Council on 29 September. On 27 November the Council decided to consider together the two items "Complaint of armed invasion of Taiwan (Formosa)" and "Complaint of aggression on the Republic of Korea".[74] On the same day, a representative of the People's Republic of China took his seat at the Council table.

(2) Statements by Representatives

At the 526th meeting on 28 November, a USSR proposal that the floor be given first to the representative of the People's Republic of China was rejected by 7 votes to 1 (USSR), with 2 abstentions (India, Yugoslavia). After the representative of the United States had made a statement,[75] the representative of the Central People's Government of the People's Republic of China stressed that he was present at the Council table in the name of the 475,000,000 people of China to charge the Government of the United States with the unlawful and criminal act of armed aggression against the territory of China, Taiwan, including the Penghu Islands. The charge of aggression against Taiwan should have been lodged by a representative on the Security Council of the Central People's Government of the People's Republic of China, as a permanent member of the Council. In this connexion, he protested against the United Nations not having seated such a representative. So long as the Organization persisted in denying admittance to a permanent member representing 475,000,000 people, it could not make lawful decisions on any major issues or solve any major problems, particularly those which concerned Asia. Accordingly, he demanded the expulsion of the delegates of the Kuomintang reactionary clique from the United Nations and the admission of the lawful delegates of the People's Republic of China.

The Central People's Government of the People's Republic of China, in a statement issued on 28 June 1950, had pointed out that the statement by President Truman on 27 June, together with the actions of the United States armed forces, constituted armed aggression against Chinese territory and a gross violation of the Charter.

Taiwan was an integral part of China, as was clearly reflected in the Cairo Declaration and in the Potsdam Declaration signed jointly by China, the United States of America and the United Kingdom, and subsequently adhered to by the USSR. On 2 September 1945, Japan had signed the Instrument of Surrender, the first article of which explicitly provided that Japan accepted the provisions set forth in the Potsdam Declaration. When the Chinese Government had accepted the surrender of the Japanese armed forces in Taiwan and exercised sovereignty over the island, Taiwan had become, not only de jure but also de facto, an inalienable part of Chinese territory. For this reason, during the five post-war years until 27 June 1950, no one had ever questioned the fact that Taiwan was an inseparable part of Chinese territory, de jure and de facto. President Truman himself had, on 5 January 1950, admitted that Taiwan was Chinese territory. Yet, the United States Government had had the audacity to declare its decision to use armed force to prevent the liberation of Taiwan by the People's Republic of China, and to dispatch its armed forces in a large-scale open invasion of Taiwan.

Later, President Truman had sent General MacArthur, Commander-in-Chief of the United States Armed Forces in the Far East, to Taiwan to confer

[74] See p. 241.
[75] For the statement, see pp. 241-42.

with Chiang Kai-shek on concrete measures for using Taiwan as a base from which to wage war against the Chinese people.

The attempt of the United States Government to justify its invasion and occupation of Taiwan by pretending that the status of the island was not yet determined was groundless. History itself and the situation during the last five years following Japan's surrender, had long determined the status of Taiwan as an integral part of China. Moreover, under Article 107 of the Charter, the United Nations had no right whatsoever to alter that status, the less so since the question did not exist.

The armed invasion of Taiwan was the inevitable consequence of the United States Government's policy of intervention in China's internal affairs. During the period following Japan's surrender, the United States Government and the Chiang Kai-shek Kuomintang régime had signed all kinds of unequal treaties and agreements which reduced China to the status of a colony and military base of the United States. After Japan's surrender and following the victory of the Chinese People's Liberation Army on the mainland, the United States Government had intensified its activities with regard to Taiwan with the aim of putting it under American control and converting it into a military base. That Government had also intensified its support for the Chiang Kai-shek régime and had continued through that régime to try to prevent the island's liberation so that it might remain under American domination. This was not an isolated affair, but part of the over-all plan of the United States Government to intensify its aggression, and its control and enslavement of Asian countries, which had been going on for the last five years.

In conclusion the representative of the People's Republic of China submitted a draft resolution (S/1921) calling upon the Council:

(1) to recognize that the invasion and occupation of Taiwan by the armed forces of the United States constituted open and direct aggression against Chinese territory, and that the armed aggression against Chinese territory and the armed intervention in Korea by the armed forces of the United States had shattered peace and security in Asia and violated the United Nations Charter and international agreement;

(2) to condemn the Government of the United States for those acts;

(3) to demand the complete withdrawal by the Government of the United States of its forces of armed aggression from Taiwan, in order that peace and security in the Pacific and in Asia might be ensured;

(4) to demand the withdrawal from Korea of the armed forces of the United States and all other countries and leave the people of North and South Korea to settle the domestic affairs of Korea themselves, so that a peaceful solution of the Korean question might be achieved.

The representative of China rejected all assertions of American imperialist activities in China and emphasized that the United States Government had not requested any base or privilege in Taiwan. The United States Seventh Fleet had been sent to the Strait of Taiwan with the consent of his Government which, he stated, was the only legitimate Government of China. The statement of the representative of the People's Republic of China, he said, gave a completely distorted account of American activities with regard to China and of the actions of the United Nations with regard to Korea. The resolutions of the Security Council, he said, showed that any idea of using Korea as a base of aggression against China was totally foreign to the thought of the United Nations.

The representative of the USSR stated that the cablegram of the Minister of Foreign Affairs of the People's Republic of China, dated 24 August, and the statement of the representative of that Republic showed quite clearly that the United States Government had committed an act of aggression against China by invading Taiwan, which was its territory.

With regard to the status of Taiwan, the representative of the USSR associated himself with the arguments submitted by the representative of the People's Republic of China to the effect that this question could not again be made a subject of discussion since it had been decided upon by international agreements during the war, and in particular by the Declarations of Cairo and Potsdam and the Japanese Instrument of Surrender. The attempts of the United States, he said, to bring the question before the United Nations were clearly aimed at changing the legal status of the island through the agency of the United Nations and thereby to conceal United States aggression against China. The question, he emphasized, was not that of the status of Taiwan, but of armed aggression against China and the invasion of the Chinese island of Taiwan by the United States. He said that the Security Council and the United Nations were in honour bound to protect the victim of aggression and to take appropriate action against the aggressor.

The representative of the United Kingdom stated that the representative of the People's Republic of China had completely failed to substantiate any accusation that the island was being converted into a United States base, or that the United States was in control of it. The disposal of the island like that of other territories formerly be-

longing to Japan, still remained, he said, a matter of international concern. Any attempt to settle the question by armed force and in the absence of any generally recognized legal decision, must have international repercussions and was, therefore, not acceptable.

The draft resolution submitted by the USSR on 2 September (S/1757) was rejected by 9 votes to 1 (USSR), with 1 member (India) not participating.

The draft resolution submitted by the representative of the People's Republic of China, and sponsored by the USSR (S/1921) was rejected by 9 votes to 1 (USSR), with 1 member (India) not participating.

b. CONSIDERATION BY THE GENERAL ASSEMBLY

By a letter (A/1375) dated 20 September 1950, the USSR proposed that the question of American aggression against China should be included in the agenda of the fifth session of the General Assembly. In an explanatory note (A/1382), dated 21 September, the USSR recalled that, on 27 June 1950, the President of the United States had officially stated that he had issued orders to the United States armed forces concerning operations in connexion with Taiwan (Formosa).[76] This order had been followed immediately by the blockade of Taiwan by the United States Navy and the invasion of Taiwan by United States armed forces. These actions, the note stated, represented gross interference in the internal affairs of China, a direct encroachment on its territorial integrity and political independence, and a direct act of aggression against the People's Republic of China. They had been followed by the bombing and machine-gunning of Chinese territory in the area of the Manchurian-Korean frontier by the United States Air Force, causing loss of life and damage to buildings and installations. These acts constituted a serious threat to international peace and security and called for immediate action by the United Nations.

Upon the recommendation of its General Committee, the General Assembly, at its 285th plenary meeting on 26 September, included the item in its agenda under the title "Complaint by the USSR regarding aggression against China by the United States" and referred it to the First Committee, which considered it during 1950 at its 405th to 409th meetings, on 24 and 27 November and 7 December.

In a cablegram (A/C.1/590) dated 17 October 1950, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China claimed that, as the sole legal government representing the Chinese people, his Government had the right and necessity to send a delegation to attend and participate in the proceedings of the fifth session of the General Assembly. If the General Assembly should proceed with this particular agenda item without the attendance and participation of the representative of the People's Republic of China, its resolutions would be illegal, null and void.

At the 399th meeting of the First Committee on 15 November, during a discussion on the priority to be assigned to the consideration of items that yet remained on its agenda, the USSR introduced a draft resolution (A/C.1/630), proposing that the First Committee invite the representative of the Central People's Government of the People's Republic of China to participate in the discussion of this item.

The representative of Chile, at the Committee's 405th meeting on 24 November, pointed out that the Minister for Foreign Affairs of the People's Republic of China had based his application on his claim to speak for the only legitimate Government of China, and the USSR draft resolution had, in turn, been based on the request of the People's Republic of China. In order to clarify the point, he submitted an amendment (A/C.1/635) to replace the operative part of the USSR draft resolution. The Chilean amendment proposed that the representative of the People's Republic of China should be invited to present his views and provide such information as the Committee might request during its discussion of the item, and stated that the invitation in no way prejudged the merits of the question under discussion or affected the present status of Chinese representation in the United Nations. Upon further clarification by the representative of the USSR, the representative of Chile agreed to withdraw the amendment if the USSR were agreeable to the addition to its proposal of a provision in the sense of the Chilean amendment. The proposed addition was not accepted by the USSR and the Chilean amendment was therefore put to the vote at the 406th meeting on 24 November. It was rejected by 17 votes to 9, with 33 abstentions. The USSR draft resolution (A/C.1/630) was then put to the vote by roll call and was adopted by 30 votes to 8, with 22 abstentions.

[76] See p. 223.

Further discussion of the item was postponed for two days to enable the Secretary-General to communicate the text of the Committee's resolution to the Government of the People's Republic of China. The Minister for Foreign Affairs of that Government replied by cablegram (A/C.1/636) on 26 November, appointing a representative to participate in the discussion of the item in the First Committee. At the Committee's 407th meeting on 27 November, the Chairman invited the representative of the Central People's Government of the People's Republic of China to the Committee table.

The representative of the USSR, at that meeting, listed the illegal acts which he stated the United States had committed against the Chinese people and their Government. In execution of President Truman's orders announced on 27 June, the United States naval forces, he said, had blockaded Taiwan and patrolled the Strait so that Taiwan's ports could be used as United States naval bases. It had subsequently been reported in the Press that some detachments of the United States Air Force had been moved to Taiwan and a group of General MacArthur's staff officers had been established as military observers. By these actions, the United States had violated the Cairo and Potsdam Declarations, under which Taiwan would be restored to China. It had also violated the principles of international law and the United Nations Charter, in particular Article 2, paragraph 4, choosing to replace the principle of the territorial integrity of States by the use of armed force in international relations. In August 1950, General MacArthur had gone to Taiwan and had announced that he had reached an agreement with Generalissimo Chiang Kai-shek on the defence of the island. The speeches of various political leaders and other evidence showed that United States aggression had the far-reaching objectives of preventing the ejection of the Kuomintang from its last refuge and of keeping Taiwan as a United States base in the Far East. Furthermore, these American plans relating to Taiwan had been made long before the events in Korea.

The representative of the USSR then gave examples of the complete economic control of the island by United States monopolies. He stated that it was clear from the documents and evidence available that the United States had decided upon aggression against China in accordance with its policy of supporting the Kuomintang, in order to secure Taiwan as a strategic base and take possession of its resources. He referred also to the repeated United States violations of Chinese air space near the Manchurian border and, after a review of the history of relations between the United States and China, concluded that United States policy in the nineteenth and twentieth centuries had, in fact, been designed to ensure the domination of China by American monopolies, with the help of reactionary Chinese elements.

He maintained, first, that the United States had invaded Taiwan with armed forces, although that island was an integral part of Chinese territory; secondly, that the United States had blockaded the shores of Taiwan with its navy so as to deny access to that island to the armed forces and authorities of the legitimate Government of the People's Republic of China, thereby jeopardizing the territorial integrity of China; and thirdly, that United States armed intervention in the internal affairs of China had been accompanied by the threat of the use of armed force against the only legitimate Chinese Government, in gross violation of the sovereignty and political independence of China.

The representative of the USSR then submitted a draft resolution (A/C.1/637):

(1) noting, inter alia, the facts of the infringement of Chinese territorial integrity and the inviolability of its frontiers by naval and air units of the United States, as witnessed by (a) the invasion by United States armed forces of the Island of Taiwan and the consequent intervention by the United States in the domestic affairs of China, and (b) the blockade of the coast of Taiwan by the United States Seventh Fleet for the hostile purpose of barring the island to the armed forces and authorities of the People's Republic of China;

(2) asking the General Assembly to request the Security Council to take the necessary steps to ensure the immediate cessation of aggression against China by the United States.

The representative of the United States said that he would answer the USSR statement more fully at a later date, after he had occasion to study more carefully that statement and the allegations it contained. Making a preliminary answer, he declared that the USSR was trying to kill the historic friendship between the peoples of China and of the United States, and was using every means to try to bring the Chinese people to hate and even to fight the United States. Throughout history, the United States, he remarked, had acted as a friend of China and had sought to preserve its political and territorial integrity.

In anticipation of the first allegation that the United States had invaded Formosa with its armed forces, the representative of the United States declared that he had requested by cable the precise figures of the United States military personnel on that island. The United States authorities on For-

mosa had replied that there was a total of 44 persons, nineteen of whom were military attaches at the United States diplomatic missions, one was a warrant officer and 24 were enlisted men. Thus, the total invasion force on Formosa of 44 persons was a figure which corresponded closely to the total number of the Soviet Union's military attaches and aides in Washington.

The second allegation that the United States had blockaded Formosa, he said, was totally incorrect. The precise instructions given on 29 June by the United States Joint Chiefs of Staff to the Commander-in-Chief of the Far East Command had only instructed the latter to defend Formosa against invasion by Chinese communists and to prevent Formosa from being used as a base against the Chinese mainland. That was not a blockade, since commercial traffic was moving without any interference from the United States naval units.

On 27 June 1950, President Truman had stated that the occupation of Formosa by communist forces would constitute a direct threat to the security of the Pacific area, thus explaining the reason for the instructions given to the Commander-in-Chief in the Far East to prevent the outflanking of the United Nations forces in Korea. Moreover, it should be borne in mind, he explained, that Formosa was still of international interest as a former Japanese colony the status of which was still undecided. Considering the tremendous military efforts and the great sacrifices made by the United States in that area, it was only natural that the United States should have some voice in the determination of the future of Formosa.

The third point in the USSR indictment of the United States was that its aircraft had violated the Manchurian air in the prosecution of United Nations activities in Korea.[77] Possibly, the United States representative noted, those complaints should be directed against the United Nations rather than the United States, whose forces made up only a part of the allied air force in Korea. The United States, he indicated, was not in a position to verify alleged violations of the Manchurian air zone, since its pilots were unaware that they had committed them. The alleged bombings on Chinese territory were supposed to have occurred at points of bridge-crossings of the Yalu River bridges, through which the communist troops had poured across into North Korea in recent days.

The representative of the United States then cited historic acts of friendship on the part of the United States for the people of China such as the "open door" policy, the remission of the Boxer indemnity to China, the nine-Power Treaty of Washington concerning China and the Kellogg doctrine of non-interference. He also recalled that the United States, in 1941, had risked a terrible war rather than recognize the Japanese puppet régime of Wang Ching-wei, which had been exercising de facto authority over most of the Chinese people. He cited names and figures of educational, religious and health institutions in China and called attention to the spontaneous friendly expression of individual Americans in contributing millions of dollars to China, to help the victims of such disasters as the North China famine of 1920, the great drought of 1928 and the Yangtse floods of 1927 and 1931.

History, the representative of the United States submitted, would never accuse the United States of having been motivated by anything other than a desire to serve what it honestly believed to be the welfare of the Chinese people. All decent and peace-loving people would condemn those who sought to replace that friendship, confidence and peace with hatred, fear and fighting.

At the Committee's 408th meeting on 7 December, the representative of France orally proposed that the Committee include in its agenda the item "Intervention of the Central People's Government of the People's Republic of China in Korea",[78] and begin immediately with its consideration. He recalled that the General Assembly, at its 319th plenary meeting on 6 December, had decided to place the item on its agenda and had instructed the First Committee to consider it.

The representative of France considered that the item related to an immense and immediate threat to the peace of the world. All the Members of the United Nations, he said, were directly affected by that item of the agenda, because they were jointly the guarantors of the Charter and because the intervention of Peking's forces in Korea was contrary to the Charter. The responsibility of the United Nations was involved because United Nations forces, which morally belonged to all the Member States, were in danger. He called upon the First Committee to consider that item as a matter of priority, in order to fulfil United Nations responsibilities with respect to the Charter, to Korea and to the men who had responded to the appeal of the Organization and who each day were dying in Korea.

[77] **See pp. 286-87.**
[78] See **pp. 244-51.**

The French proposal was opposed by the USSR representative, who insisted that the Committee continue the consideration of the Soviet complaint of United States aggression against China, the discussion of which had begun on 27 November. The problem on which it was proposed to postpone discussion, he said, was of no less urgency than any other. Any delay in the discussion of that problem, he argued, would constitute a flagrant and intolerable violation of the practice of the United Nations.

The French proposal was supported by the representatives of Australia, Bolivia, Brazil, Chile, Egypt, Greece, Lebanon, Nicaragua, Syria, Turkey, the United Kingdom and Uruguay, among others.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR associated themselves with the opposition to the French proposal expressed by the USSR representative.

The French proposal was adopted by the First Committee, at its 409th meeting on 7 December, by 42 votes to 5, with 4 abstentions. No further action during 1950 was taken on the USSR complaint regarding aggression against China by the United States.[79]

c. ITEM PROPOSED BY THE UNITED STATES IN THE GENERAL ASSEMBLY

By a letter (A/1373) dated 20 September 1950, the United States requested that the question of Formosa should be included in the agenda of the fifth session of the General Assembly. In an explanatory note (A/1381), dated 21 September, the United States recalled the provisions of the Cairo Declaration of December 1943 and the Potsdam Declaration of July 1945. In the Cairo Declaration, the President of the United States, the British Prime Minister and the President of China stated that it was their purpose that Manchuria, Formosa and the Pescadores should be restored to the Republic of China, and that, in due course, Korea should become free and independent. In the Potsdam Declaration, defining the terms for Japanese surrender, the three Allied leaders declared that the terms of the Cairo Declaration should be carried out. The provisions of the Potsdam Declaration, the letter stated, were accepted by Japan at the time of its surrender, and the General Order of the Japanese Imperial Headquarters, issued pursuant to the terms of surrender, provided for the surrender of the Japanese forces in Formosa to Generalissimo Chiang Kai-shek.

The United States also recalled that, on 27 June 1950, President Truman had stated that the North Korean forces had defied the orders of the Security Council and that, in those circumstances, the occupation of Formosa by communist forces would be a direct threat to the security of the Pacific area and to United States forces. Accordingly, President Truman had ordered the United States Seventh Fleet to prevent any attack on Formosa and had called upon the Chinese Government on Formosa to cease all air and sea operations against the mainland. The President also stated that the determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan or consideration by the United Nations. The letter added that the United States Government had made it abundantly clear that the measures it had taken with respect to Formosa were without prejudice to its long-term political status and that the United States had no territorial ambitions and sought no special position or privilege with Formosa. The United States further believed that the future of Formosa should be settled by peaceful means, in accordance with the Charter. Finally, it was suggested that the General Assembly should study the general situation with respect to Formosa, with a view to formulating appropriate recommendations.

The question of whether or not this item should be included in the agenda of the fifth session of the General Assembly was considered by the General Committee at its 69th-71st meetings, held on 21 and 22 September and 5 October, and by the General Assembly, at its 249th plenary meeting on 7 October.

Representatives of China and the USSR in the General Committee and of China, Czechoslovakia and the USSR in the General Assembly opposed the inclusion of the item.

The representative of China stated that it was unprecedented in the United Nations for the Government of one Member State to question the right of another State to its territorial possessions. In so doing, the United States delegation had taken a very grave step. In accordance with the principles laid down by the Charter, the Cairo Declaration and the Potsdam Declaration, the Chinese delegation, he asserted, felt that it was beyond the competence of the General Assembly to consider the proposed item. He went on to state that so long as Formosa stood, the communist conquest of the mainland of China could not be

[79] The First Committee resumed consideration of this item at its 439th meeting, on 2 Feb. 1951.

completed or consolidated. The island was therefore the bastion of freedom in the whole Far East. It would be dangerous if the General Assembly or any delegation should do anything to undermine this bastion of freedom. Discussion of the question of Formosa in the General Assembly would create uncertainty and spread confusion. Such discussion, he added, would call into question the status of the island, and that was not in harmony with the principles of the Charter; for the basic and primary aim of the United Nations was to have regard for the political independence and territorial integrity of its Member States.

The representative of the USSR, supported by Czechoslovakia, opposed the inclusion of the item in the agenda on the ground that the Cairo Declaration had unreservedly recognized that Taiwan (Formosa) and the Pescadores belonged to China. The Potsdam Declaration had confirmed those provisions, and the order for the surrender of the Japanese forces had provided that the Chinese Command should accept the surrender of Japanese troops on Taiwan on the legal ground that Taiwan was an inalienable part of Chinese territory. A peace treaty with Japan would merely endorse an international act, which had already been completed and could not be reviewed, by which Taiwan had been handed over to China. Discussion by the United Nations of the question of Formosa, they said, would be contrary to Article 107 of the Charter and would also constitute an intervention in the internal affairs of China, in violation of Article 2, paragraph 7. The principal reason why the United States delegation had raised the question of Formosa, they argued, was that there had been a change of political régime in China and the United States intended to transform Formosa into a strategic base.

Representatives of Australia and the United States, in the General Committee, and of El Salvador and the United States, in the General Assembly, spoke in favour of including the item in the Assembly's agenda. It was argued that the very fact that the item was clearly a cause of dispute warranted its inclusion in the agenda as a matter of international concern. It was considered that the settlement of the question of Formosa had become necessary in the interests of the maintenance of international peace and security in general, and the settlement of the Korean question in particular. It was also argued that the wishes of the inhabitants of Formosa should be taken into consideration when any future decision was made. The representative of Australia pointed out that it had not been a party to the Cairo Declaration and did not recognize the competence of the great Powers to decide the future of any part of the world without consulting their wartime allies. The argument that it was unprecedented for one Member State to question the territorial possessions of another, he said, would be valid only if all countries recognized the Cairo Declaration as legally binding. Those supporting the inclusion of the item in the Assembly's agenda also pointed out that an appeal to Article 2, paragraph 7, of the Charter was invalid, because Article 14 placed within the competence of the General Assembly measures for the peaceful adjustment of any situation, regardless of origin. Article 107 was irrelevant, since it came merely under the heading of "Transitional Security Arrangements".

The General Committee, at its 71st meeting on 5 October, decided by 10 votes to 3 to recommend that this item be included in the agenda. It unanimously decided to recommend that the item be allocated to the First Committee. The recommendations of the General Committee were adopted by 42 votes to 7, with 8 abstentions, by the General Assembly at its 294th meeting on 7 October. The First Committee considered the item during 1950 at its 399th meeting on 15 November.

In a cablegram (A/C.1/590) dated 17 October, the Minister for Foreign Affairs of the Central People's Government of the People's Republic of China maintained that Taiwan was an inseparable part of the territory of China. This fact, he said, was based on history, confirmed by the situation since the surrender of Japan, and corroborated by the Cairo and Potsdam Declarations. He protested against the decision to include the item in the agenda and demanded that the General Assembly should cancel this illegal decision.

At its 399th meeting, the First Committee,[80] after discussing an oral proposal by the representative of the United States that consideration of the item should be deferred, decided, by 53 votes to none, with 5 abstentions, to postpone the discussion until after consideration of the items "Threats to the political independence and territorial integrity of China and the peace of the Far East, resulting from Soviet violations of the Sino-Soviet Treaty of violations of the Charter of the United Nations"[81] and "Complaint by the USSR regarding aggression against China by the United States".[82]

[80] The First Committee continued discussion of this question in Feb. 1951.

[81] See pp. 381-85.

[82] See pp. 294-97.

9. Provision of a United Nations Ribbon for Personnel Participating in Korea in Defence of the Charter

On 2 October 1950, the Philippines requested that the following item be included in the agenda of the fifth session of the General Assembly: "Provision of a United Nations distinguishing ribbon or other insignia for personnel participating in Korea in the defence of the principles of the Charter of the United Nations."

The Philippines also proposed a draft resolution to authorize the Secretary-General to make the necessary arrangements for the award of such a ribbon or other insignia.

This item was considered by the General Committee of the General Assembly at its 71st meeting on 5 October. The representative of the USSR, in opposing the inclusion of the item in the agenda, declared that the resolutions on Korea which had been taken by the Security Council had no legal force, because they were taken by the Council in the absence of two of its permanent members—the USSR and China—and with the participation of a "representative of the Kuomintang group". He also stated that the troops which were fighting in Korea were the troops of single States and not an army of the United Nations.

The representative of the United Kingdom supported the inclusion of the item. He pointed out that his own country had troops in Korea, which, like those contributed by other States, were fighting and dying there only because they were obeying the recommendations of the United Nations. He said that he could not agree with the USSR representative's interpretation of the situation.

The General Committee decided, by 12 votes to 2, to recommend that the General Assembly include the above item in its agenda and unanimously decided to refer it to the Sixth Committee.

The General Assembly, at its 294th plenary meeting on 7 October, considered this recommendation. The representative of the Philippines spoke in support of his proposal. He maintained that it was proper for the soldiers of peace to be given a distinctive mark to distinguish them as such, that the need for such a distinctive mark was evident, and it would no doubt be welcomed by those serving under the United Nations flag.

The representatives of Czechoslovakia, Poland and the USSR protested against the inclusion of the item in the agenda on the following grounds:

(1) Decisions of the Security Council with respect to Korea were taken by six members of the Council and were therefore illegal. Consequently any action, resolution or recommendation based on the Security Council action must be considered illegal and invalid.

(2) The United Nations had no right to decorate anyone for any political conviction, that is to say, for convictions which were shared only by certain representatives and certain Governments and which were foreign and hostile to hundreds of millions of people. It had no right to give orders, medals or ribbons, a right belonging exclusively to States and Governments. Such a right by the United Nations was authorized neither "by the Charter, by the rules of procedure, by precedent nor by common sense".

(3) "The armies of aggression in Korea include persons, especially among the airmen, who have taken part in barbarous air raids against the civilian population, have bombed towns and villages and have machine-gunned the peaceful population, women and children. The decoration of such persons with any kind of ribbon would represent a cynicism bordering upon crime".

The Assembly adopted the General Committee's recommendation by 45 votes to 5, with 6 abstentions.

The Sixth Committee considered the question at its 274th meeting on 30 November.

The representative of the Philippines presented his Government's proposal. He stated that the institution of a decoration by the United Nations was within its competence in the same way as the decision it had already taken to have an official seal and a flag. The details, he considered, could be left to the Secretary-General.

The representatives of the Dominican Republic, Peru, Turkey, the United Kingdom, the United States and Uruguay supported the proposal. While supporting the Philippine proposal, the representatives of Belgium, France and the Union of South Africa expressed the view that, in addition to the military action in Korea, any person who, in any circumstance, manifested exceptional heroism in the cause of the United Nations or rendered outstanding service to it, deserved such a decoration.

Those in support of the proposal expressed, inter alia, the following view. The provision of a decoration would symbolize the courage and sacrifices of those who had served the United Nations in repelling aggression in Korea. The United Nations had the right to reward personnel in its service; the power to award decorations was a logical attribute of the international personality of the Organization, which was incontestably recognized by the Charter of the United Nations and by the International Court of Justice (in its advisory opinion on losses suffered by United Nations officials in the exercise of their duties). The awarding of decorations by Governments did

not in any way prevent the awarding of a decoration by the United Nations to all those who, regardless of their nationality, had answered the call of the United Nations and were defending the principles of the Charter in Korea. The proposed decoration would not be a reward in the strict sense of the word, but rather a symbol of the gratitude of the international community for services rendered and sacrifices made in the cause of the United Nations.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR opposed the Philippine proposal, on the grounds that it was illegal and beyond the competence of the General Assembly. In support of their stand, they advanced, inter alia, the following arguments: The conflict in Korea was nothing more than a civil war. The United Nations intervention was therefore quite unwarranted, and the American and other troops merely constituted foreign interventionist units; they could never be considered as United Nations forces. Moreover, the right to award decorations belonged only to States and Governments; nowhere did the Charter of the United Nations provide for the possibility of awarding decorations. To award decorations to those who had participated in the intervention in Korea would be to reward those waging war on a foreign territory against those fighting on their own soil for their native land. The troops in Korea were not soldiers of the United Nations, for they had not been sent in accordance with Article 43 of the Charter (which states, among other things, that all Members of the United Nations undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces necessary for maintaining international peace). The Philippine draft resolution proposed to confer upon the Secretary-General powers far exceeding those conferred on him by the Charter. The United Nations was not a State, and the Secretary-General was not a head of State. It was therefore absurd to confer the powers of a head of State on him.

After a discussion had taken place on the question of whether the Philippine proposal was illegal and on the competence of the General Assembly to deal with it, the majority of the Sixth Committee agreed that the proposal could not be considered illegal and that the Assembly was competent to adopt the Philippine draft resolution. Invoking one of the rules of procedure of the General Assembly, the representative of Poland asked for a vote on the question of the Assembly's or the Sixth Committee's competence to adopt the Philippine draft resolution. The Committee decided, by 32 votes to 5, with 3 abstentions, that the Assembly was competent.

At the request of the representative of the Philippines, the Committee took a vote by roll-call on the draft resolution before it. It was adopted by 32 votes to 5, with 4 abstentions.

The report of the Sixth Committee (A/1631) containing the text of the draft resolution recommended for adoption by the General Assembly was considered by the Assembly at its 320th plenary meeting on 12 December. The Assembly also had before it the report of the Fifth Committee (A/1664) on the financial implications of the draft resolution proposed by the Sixth Committee. This report expressed doubt regarding the position taken by the Secretary-General to the effect that no financial implications would result from the proposed resolution. It pointed out that a French proposal was approved, which stated that the situation would be adequately met "if appropriate reference to the Secretary-General's authority to use the Working Capital Fund for the purposes in question were included in the report submitted by the Fifth Committee on the budget estimates for 1951".

The draft resolution contained in the report of the Sixth Committee was adopted by 38 votes to 5, with 2 abstentions.

The representative of Czechoslovakia, Poland and the USSR declared that they had voted against the resolution because it was based on illegal resolutions of the Security Council, and because the intervention in Korea "was and is illegal". They stated that it was the armed forces of the United States and several other countries, and not the armed forces of the United Nations, which were taking part in the military operations in Korea. They argued that such participation "in the United States aggression against the Korean people is a flagrant violation of the principles of the Charter".

The representative of the United States explained that he had voted for the resolution because forces not only of the United States but of many other nations were fighting together in Korea under the United Nations flag to support the rule of law in the world. He declared that if peace were wanted in this world, it would be necessary to support and show appreciation of those who are willing to die in order to support the rule of law in the world. Without law, he argued, there could be no peace. He went on to

state that if "we want peace... let us show our willingness to support the law and the Charter of the United Nations".

The text of the resolution (483(V)) adopted is as follows:

The General Assembly,

Desiring to symbolize the valour and sacrifices of the men and women who have served on behalf of the United Nations in repelling aggression in Korea,

Recalling its resolution 92(I) on the official seal and emblem of the United Nations, its resolution 167(II) on the United Nations flag, and the resolution of the Security Council of 7 July 1950 authorizing the Unified Command to use the United Nations flag,

Resolves that the Secretary-General be requested to make arrangements with the Unified Command, established pursuant to the Security Council resolution of 7 July 1950, for the design and award, under such regulations as the Secretary-General shall prescribe, of a distinguishing ribbon or other insignia for personnel which has participated in Korea in the defence of the Principles of the Charter of the United Nations.

C. THE INDONESIAN QUESTION

The year under review was of importance to the Indonesian question, which first came before the United Nations in 1947,[82a] for it witnessed:

1. the first year of existence of the independent, sovereign Republic of Indonesia, first as a federated and subsequently as a unitary state;

2. the repatriation of the major portion of the Royal Netherlands forces from Indonesia;

3. the admission of Indonesia as the sixtieth Member of the United Nations.

On 27 December 1949, sovereignty was transferred to the Republic of the United States of Indonesia as a result of the agreements reached at the Round Table Conference at The Hague. In its Special Report of 10 November 1949 (S/1417), the United Nations Commission for Indonesia (UNCI) informed the Security Council of these agreements which, in a Covering Resolution, provided that the Commission or another United Nation agency should observe in Indonesia the implementation of the agreements concluded at The Hague.

As a result, the Commission's activities subsequent to the transfer of sovereignty were based on its general terms of reference under the Security Council's resolution of 28 January 1949 and on the pertinent section of the above-mentioned Covering Resolution. Following the Round Table Conference, the Commission returned to Indonesia shortly before the actual transfer of sovereignty, and it remained in the Republic throughout the period under review.

In general, the implementation of the Round Table Conference agreements did not necessitate the Commission's intervention since, in most cases, the parties settled their problems through direct discussions. Those problems with which the Commission was associated in one way or another arose from the military and political provisions of the agreements, whereas with regard to those provisions dealing with financial, economic, social and cultural matters, the Commission was able to limit itself to taking note of the results achieved by the parties at the first and second sessions of the Conference of Ministers of the new Netherlands-Indonesian Union.

1. Military Affairs

The Round Table Conference agreements had specified among other matters that the Commission or its successor would be given the opportunity to co-operate in the repatriation of the Royal Netherlands Army from Indonesia. At the time of the transfer of sovereignty, there were in Indonesia some 80,000 troops of the Royal Netherlands Army (KL) and 65,000 troops of the Royal Netherlands Indonesian Army (KNIL), the latter composed mostly of soldiers of Indonesian origin. The Governments concerned were confronted with two main questions: the withdrawal of Netherlands troops from Indonesia; and the dissolution of the KNIL.

On 23 January 1950, a Contact Committee was established upon the Commission's initiative to facilitate the implementation of the United Nations' responsibilities as set forth in the Covering Resolution. This Contact Committee, comprising the Commission and representatives of the Indonesian and Netherlands Governments, established at its first meeting a Sub-Committee for Military Affairs, which on 6 February 1950 formalized a number of directives which the parties had

[82a] See Y.U.N., 1947-48, pp. 362-87; 1948-49, pp. 212-37.

adopted. These directives referred in particular to (a) the transfer of territorial responsibility for law and order from Netherlands to Indonesian forces, (b) military and technical assistance by Netherlands land forces to the Indonesian forces, (c) the reorganization of land forces formed by, or under the authority of, the Netherlands Indonesian Government, (d) the transfer of KNIL installations, equipment and services and (e) the transfer of KNIL material and workshops in use by the Royal Netherlands Army.

Agreement was reached concerning the establishment of assembly areas (rayons) where Netherlands troops were to be gathered pending their withdrawal from Indonesia. In all, seventeen rayons were set up in various parts of Sumatra, Java, Madura, Riouw, Bangka and Billiton. It was also agreed that the location and area of the rayons would be reviewed each month in the light of the reduction in the number of troops under Netherlands command.

The Commission's military observers were requested to observe the implementation of these agreements and regulations. The military observer teams were mobile in character; and, as the rayons were closed down, these teams were in turn withdrawn and the number of observers reduced.

The repatriation of KL forces from Indonesia proceeded satisfactorily and with the full cooperation of the authorities concerned. However, the implementation of the provisions regarding the re-organization of the KNIL met with some difficulty.

The parties concerned agreed that the reorganization of the KNIL should be completed by 26 July 1950, and in its Special Report of 28 July (Doc. S/1663), the Commission informed the Security Council of the agreement reached between the two Governments on 15 July, whereby KNIL troops remaining under Netherlands Command at that date were to be given the temporary status of KL personnel and, pending demobilization and transportation to their ultimate destination, were to be assembled in camps under Netherlands authority. As of 15 July: of 80,000 KL troops, 67,000 had left Indonesia; of 65,000 KNIL troops, 26,000 had joined the Indonesian Army, 18,750 had been demobilized in Indonesia and 3,250 had departed for the Netherlands. Thus, at the end of July, 13,000 KL troops and 17,000 ex-KNIL troops enjoying KL status remained in Indonesia under Netherlands control.

However, events outside the control of the parties delayed further withdrawal and repatriation operations. The movement in the early months of 1950 towards the establishment of a unitary state in Indonesia had met with some opposition in East Indonesia, and resulted in various incidents and uprisings. The most serious trouble occurred in the island of Amboina in the Moluccas, to which most of the Indonesian members of the ex-KNIL were to be repatriated. On 25 April a group seized authority in the city of Ambón and announced the formation of a "South Moluccas Republic", comprising Amboina, Buru, Ceram and other nearby islands. The "Republic" proclaimed its separation from the East Indonesian state and from the Republic of the United States of Indonesia.

The Indonesian Government made various unsuccessful attempts to negotiate a settlement, and landed armed forces on 13 July on Buru and later on Ceram. The Commission was concerned for the safety of the civilian population and on 4 August it expressed to the Indonesian Government its readiness to render assistance in any way which might be considered appropriate. This offer was repeated on 25 September when the Commission also stated its readiness to proceed to Ambón in order to attempt to persuade the persons in control there to conduct negotiations with the Indonesian Government on the basis of terms and conditions which that Government might be prepared to put forward.

In his reply, on 30 September, the Indonesian Foreign Minister pointed out that in his Government's opinion, the intervention of the Commission in the South Moluccas affair would not serve any useful purpose but would, on the contrary, constitute an encouragement to the rebels in Ambón by creating the impression that their case was being raised to an international level.

Meanwhile, on 28 September, Indonesian forces landed in Amboina and military operations also took place on the island of Ceram. On 5 October, the Netherlands High Commissioner formally requested the Commission to use all the means at its disposal to obtain a cessation of fighting in the South Moluccas in view of possible repercussions that such military action might have on the morale and discipline of the Ambonese ex-KNIL soldiers assembled in camps under Netherlands control in Java.

Subsequently, the Commission appealed to the Indonesian Government to halt the military operations in the South Moluccas and to explore the possibility of a peaceful settlement by accepting the Commission's offer of good offices. In its letter of 6 October, the Commission pointed out that in making this appeal it was prompted by humani-

tarian considerations and was also acting in accordance with its responsibilities under its terms of reference with regard to the demobilization and repatriation of the Ambonese ex-KNIL personnel in camps in Java, upon which the military operations in Amboina might have had an important bearing.

The Indonesian Government, however, did not accept the Commission's offer; it reiterated views previously stated and expressed the hope that the military operations in Amboina would be successfully concluded within a short time. It stated that extreme care was being taken to ensure the safety of the civilian population and that, upon conclusion of the operations, it intended to grant to the province of South Moluccas an appropriate measure of autonomy. At the same time, the Indonesian Government expressed its willingness, once the military operations were concluded, to commence discussions with the Commission as to the best means of expediting the demobilization and repatriation of the Ambonese ex-KNIL troops stationed in Java.

In these circumstances, the Commission felt obliged to report to the Security Council (telegraphic report dated 11 October 1950; S/1842) its attempts to bring about a peaceful settlement of the South Moluccas problem and their failure.

As the Commission was concerned with the necessity of speeding up the demobilization of ex-KNIL personnel in camps in Java, it took advantage of the offer made by the Indonesian Government and suggested to the parties that a meeting of the Contact Committee be held without delay to work out in advance plans to be put into effect when the situation allowed repatriation to the islands of Moluccas. The Contact Committee met on 25 October, and an ad hoc sub-committee, under the auspices of the Commission, was established to consider all technical aspects of the problem. Discussions in the sub-committee led to further informal talks between the representatives of the parties and subsequently to an agreement concerning the repatriation to Amboina and the neighbouring islands and demobilization of ex-KNIL personnel. As of the end of 1950, such repatriation had not taken place, and the ex-KNIL personnel were still quartered in the camps in Java.

2. Western New Guinea

Throughout the Round Table Conference the parties had held directly conflicting viewpoints as to whether the transfer of sovereignty over Indonesia should include the territory of Western New Guinea. A compromise was eventually adopted, according to which the status quo of the Residency of New Guinea was maintained with the stipulation that within a year from the date of the transfer of sovereignty (i.e. by 27 December 1950), the political status of New Guinea should be determined through negotiations between the two parties.

During 1950, the two Governments concerned held various discussions on the future status of New Guinea. In the first stage of these discussions, the parties kept the Commission informed of developments. However, at a later stage, they made it clear that in their view the question should be settled between themselves, and the Commission felt that its intervention, unless requested by the parties, would lack a sound basis and would be of no assistance. A Special Netherlands-Indonesian Union Conference on the question was held at The Hague in December 1950, but no agreement was reached between the parties.

3. Right of Self-Determination

One of the major questions discussed at the Round Table Conference had been that of the "external right of self-determination", namely, the right of Indonesian territories to dissociate themselves from the Republic of the United States of Indonesia and to enter into special relationship with both Indonesia and the Netherlands.

During the developments in 1950 to alter the status of the new Republic from a federated to a unitary form of government, the Netherlands High Commissioner, in a letter addressed to the Commission on 25 May, expressed his Government's concern over safeguarding the right of self-determination (as laid down in article 2 of the Agreement on Transitional Measures), and asked how the right of self-determination could be carried into effect in a unitary state.

In his letter of 8 June to the Commission, the Indonesian Prime Minister expressed the view that the right of self-determination of the peoples in Indonesia was to be guaranteed by establishing autonomous provinces or communities; he further stated that preparations were being made to hold general elections to a constituent assembly as stipulated in the Provisional Constitution, and that the constituent assembly, together with the Government, would enact the final constitution "displaying the real democratic features of the unitary state".

Subsequently, the Commission considered it necessary to state its position on the question. In letters addressed to the parties on 24 June, it stated that the obligation to implement the Round Table Conference Agreements, including the Agreement on Transitional Measures, rested with the two Governments concerned. Although the Commission, as an organ of the United Nations, had participated in the Round Table Conference and signed its Covering Resolution, it could not be considered a party to this Agreement; its responsibility as an international organ entrusted with the task of observing the agreements was necessarily secondary to that of the parties. Consequently, the Commission had so far regarded it as inappropriate to take action on the basis of the provisions of the Round Table Conference Agreement without first being approached in the matter by at least one of the parties.

On 15 August 1950, in the Indonesian House of Representatives, in the presence of the members of the diplomatic corps accredited in Djakarta (formerly Batavia) and the members of the Commission, President Sukarno proclaimed the establishment of the Republic of Indonesia as a unitary State.

4. Admission of Indonesia

On 25 September the Government of the Republic of Indonesia applied for admission to Membership in the United Nations, and on 26 September the Security Council recommended that it be admitted. On 28 September, the General Assembly considered this recommendation. A joint resolution (A/1403) was submitted by Australia and India stating that Indonesia be admitted to Membership. That same day, the Republic of Indonesia was unanimously admitted, becoming the sixtieth Member of the Organization.[82b]

D. THE INDIA-PAKISTAN QUESTION[83]

In its third interim report submitted to the Security Council on 5 December 1949 (S/1430), the United Nations Commission for India and Pakistan stated that, although it had secured the agreement of India and Pakistan on a part of the permanent truce line in the State of Jammu and Kashmir, and full agreement on a cease-fire line, its proposals for the implementation of the truce agreement had not been accepted. The main difficulties had arisen concerning the withdrawal of troops preparatory to the holding of the plebiscite to determine whether Jammu and Kashmir should accede to India or to Pakistan.[84] The Commission expressed doubt whether a five-member body was the most flexible and desirable instrument to continue the task and recommended that a single person should be appointed with undivided responsibility and broad authority to endeavour to bring the two Governments together on all issues.

The Czechoslovak member on the Commission presented a minority report (S/1430/Add.3) criticizing certain aspects of the Commission's work, in particular for not being free from outside influences, and calling for the establishment of a new commission to be composed of representatives of all States members of the Security Council. The report also recommended a meeting at Lake Success of the representatives of the Governments of India and Pakistan with a view to reaching an understanding on outstanding differences; it concurred with the majority report in suggesting that broader terms of reference than those possessed by the present Commission were necessary.

1. Mediation Efforts by the President of the Security Council

At the request of the Council, its President for December 1949, General McNaughton (Canada), met informally with representatives of the two parties to examine the possibility of finding a mutually satisfactory basis for dealing with the problems at issue. He reported to the Council on 29 December on the proposals which he had made to both parties on 22 December. Although his term of office expired on 31 December, the Council, by

[82b] For a detailed account, see pp. 414—15.

[83] For previous consideration of the India-Pakistan Question, see Y.U.N., 1947-48, pp. 387-403; 1948-49, pp. 279-83.

[84] In accordance with the Commission's resolutions on 13 Aug. 1948 and 5 Jan. 1949. See Y.U.N., 1947-48, p. 402; 1948-49, pp. 280-81.

9 votes to none, with 2 abstentions, decided to request General McNaughton to continue his negotiations. He submitted a final report (A/1453) to the Council on 3 February 1950.

His proposals were designed to provide a basis for an agreed programme of demilitarization to take place prior to a plebiscite in the State of Jammu and Kashmir. This was to include the withdrawal of the regular forces of Pakistan; the withdrawal of the regular forces of India not required for the maintenance of security and of law and order on the Indian side of the cease-fire line; and the reduction of local forces, including on the one side the armed forces and militia of the State, and on the other the Azad Kashmir forces. The northern area, it was proposed, should also be included in the programme of demilitarization, and its administration should, subject to United Nations supervision, be carried on by existing local authorities.

The Government of Pakistan was to give unconditional assurance to the Government of India that it would deal effectively within its own borders with any possibility of tribal incursions into the State and was to satisfy the Senior United Nations Military Observer on the adequacy of its arrangements. Both Governments were to confirm the inviolability of the cease-fire line.

Agreement was to be reached between the two Governments on the basic principles of demilitarization; on the minimum forces required for maintaining security and law and order; and on the date by which the reduction of forces was to be accomplished and the progressive steps to be taken in reducing them.

Both Governments were also to agree on the appointment of a United Nations representative, to be appointed by the Secretary-General, to supervise the demilitarization programme and to interpret agreements between the parties concerning the reduction and disposition of forces.

When the programme had been accomplished to the satisfaction of the United Nations representative the Plebiscite Administrator was to exercise the functions assigned to him under the resolution adopted by the United Nations Commission for India and Pakistan on 5 January 1949. Both parties, General McNaughton reported, had suggested different amendments, which had, however, later been declared mutually unacceptable. He considered that no useful purpose could be served by continued activity on his part.

The amendments suggested by Pakistan, apart from certain drafting changes, were in the main:

(i) that the functions of the Plebiscite Administrator would include the final disposal of all forces remaining in the State after the programme of demilitarization had been carried out;

(ii) that the assurance to be given by Pakistan that it would deal effectively within its own borders with any possibility of tribal incursions against Jammu and Kashmir should be expressed in general terms or to the United Nations, and not given to the Government of India;

(iii) that the United Nations representative would have, inter alia, the duty of obtaining an assurance from the appropriate authorities on both sides of the cease-fire line and of making it publicly known that peace, law and order would be safeguarded and that all human and political rights would be guaranteed;

(iv) that the word "enduring" should be omitted in the provision authorizing the United Nations representative to make suggestions to the two Governments likely in his opinion "to contribute to the expeditious and enduring solution of the Kashmir question".

The amendments proposed by India mainly were:

(i) the proposals should provide for the withdrawal of the irregular, in addition to the regular, forces of Pakistan and the disbanding of the Azad Kashmir Forces, and the provision in the proposals regarding the disbandment and disarming of the Armed Forces and Militia of the Kashmir State should be deleted;

(ii) the responsibility for the defence of the "Northern Area" should be vested in the Government of India and the responsibility for their administration should be vested in the Government of Jammu and Kashmir, which should guarantee that there would be no victimization of the inhabitants of the area;

(iii) that the undertaking to be given by Pakistan concerning tribal incursions should be extended to cover "incursions by tribesmen and Pakistani nationals".

2. Statements by India and Pakistan

At its 463rd-466th meetings, from 7 to 10 February 1950, the Council heard the views of the representatives of India and Pakistan on General McNaughton's proposals.

The representative of India recalled that, following India's first complaint to the Security Council that invaders of Kashmir, consisting of Pakistani nationals and tribesmen from adjacent territories, were being aided by Pakistan, Pakistan had denied these allegations. It was, however, now admitted that early in May 1948, within a fortnight of the discussions in the Security Council, regular Pakistani troops had moved into Kashmir. Pakistan, he charged, had created obstacles to the holding of a plebiscite:

(i) by sending troops into Kashmir in disregard of the Security Council's resolution (S/726) of 21 April 1948;

(ii) by creating or assisting Azad Kashmir forces between October 1948 and the spring of 1949;

(iii) by penetrating into the northern area and obtaining control of it with the assistance of "local authorities".

Instead of securing the withdrawal of Pakistani forces from the State, the Security Council, in November 1948, had merely desired the Commission to continue its efforts for a peaceful solution. Pakistan, however, was not only an invader, but in actual occupation of nearly half the area of the State. By sanctioning the administration of the area by the existing local authorities, the present proposals recognized and assisted in perpetuating the unlawful occupation of these areas by Pakistan. The proposals sprang from the assumption of a false analogy between the Pakistan army and the Indian army, as also between the Azad Kashmir forces and the Kashmir State forces.

India, it was claimed, had accepted the proposals contained in the Commission's resolutions of 13 August 1948 (S/995) and 5 January 1949 (S/1196), on the assurance that the sovereignty of the Jammu and Kashmir Government would not be brought into question; that no recognition would be afforded to the so-called Azad Kashmir Government;[85] that the territory occupied by Pakistani troops would not be consolidated to the disadvantage of the State; that there would be a large-scale disarming and disbanding of the Azad Kashmir forces; and that the question of the northern area would receive consideration in the implementation of the Commission's proposals.

The present proposals, however, eliminated the sovereignty of the Jammu and Kashmir State from the areas on the other side of the cease-fire line; the administration of these areas by the "existing local authorities" was recognized; the consolidation effected by the Pakistani troops was allowed to remain, and the disarming and disbanding of the Azad Kashmir forces was neutralized by the similar disarming and disbanding of the State forces and the State militia; and the claim made by the Government of India in respect of the northern area was dismissed. The net effect of the proposals was thus to eliminate or neutralize every one of the assurances relied upon by India.

Another important point, the representative of India stated, was that the State in its entirety should accede to either India or Pakistan, and therefore could not be disrupted before the holding of a plebiscite. The administration of the northern areas by local authorities would bring about such disruption. Moreover, he pointed out, the McNaughton proposals relied on Pakistan's assurances that it would deal effectively with any tribal incursions, without stating what would happen if United Nations observers considered the arrangements made by Pakistan inadequate. "He also took exception to the provision, which, he said, was new, that the Kashmir State forces and militia should be disbanded.

He maintained that the accession of the State to India had taken place in conformity with India's Constitution; that the question was not a Hindu-Muslim one since large sections of the Muslims in Kashmir favoured accession to India; that this accession had not caused the conflict but had been forced by the invasion of tribesmen of 22 October 1947; and that Indian troops had been sent to cope with the invaders, not to help the Ruler against his people.

The representative of India considered that the positions adopted by India and Pakistan on the question of a plebiscite were fundamentally irreconcilable. While India stood by its offer of plebiscite upon certain conditions amounting to restoration of the State to its normal condition prior to the holding of the plebiscite, Pakistan appeared to desire plebiscite under the present abnormal situation prevailing in the State.

The representative of Pakistan, replying to the representative of India, stated that in the cases of States with a Muslim ruler and a Hindu majority, India had favoured consulting the wishes of the people, but had justified its claims in Kashmir, where Muslims constituted 77 per cent of the population, on the accession of the Ruler. The geographical position and communications system, he stated, also indicated integration of Kashmir into Pakistan as the natural solution. If Kashmir acceded to India, India would be in a position to control the whole irrigation system of western Pakistan; and the defence of western Pakistan, which was based on two main road and railway systems running parallel to and within a few miles of the Kashmir border, would be impossible.

The tribal incursion of 22 October 1947, referred to by the representative of India, had taken place, he said, as a direct consequence of the suppression by the troops of the Maharaja of the freedom movement in the State.

Although both parties had agreed that there should be a free and unfettered plebiscite, they had differed consistently on the conditions for holding it. Pakistan's minimum condition had been: that all foreign and other fighting elements should be withdrawn; that a non-partisan admin-

[85] Provisional Government organized by resurgent Muslims and functioning in areas west of the cease-fire line in Jammu and Kashmir.

istration should be established in the State; and that the plebiscite should be conducted and organized by and under the authority of the United Nations.

The representative of Pakistan stated that India had consistently rejected proposals which would enable an impartial plebiscite to be held in Kashmir. Its avowed objective had been to occupy the whole State militarily and thus vitally endanger Pakistan. Pakistani troops had moved into the Azad Kashmir territory in May 1948, in order to circumvent the imminent danger to Pakistan's security and economy resulting from the continued build-up of the Indian army in Kashmir, and the consequent influx of 600,000 to 700,000 Muslim refugees into Pakistan. The United Nations Commission for India and Pakistan had been informed of this step by Pakistan as early as had been feasible.

After the entry into force of the cease-fire agreement, Pakistan had secured the evacuation of the tribesmen and of such Pakistani nationals as had entered the State for the purpose of fighting. Pakistan had done this, he stated, although under the Commission's resolution of 13 August 1948 and 5 January 1949, this obligation was to become applicable only as the first step during the truce stage. As the second step, according to the provisions of these resolutions, the Pakistan army was to begin its withdrawal; when that had begun, the Indian army was to begin withdrawing the bulk of its forces. It was not until the plebiscite stage that the final disposal was to take place of the remaining Indian forces and Kashmir forces on the one hand and of the Azad Kashmir forces on the other. There was no ambiguity in these provisions, and they had been accepted by both parties.

With regard to the administration of the State the representative of Pakistan continued, it was essential that there should be an impartial authority for the whole of the State, or a coalition Government. An administration under Sheikh Abdullah on the one hand and one under the Azad Kashmir and the local people on the other would not be balanced in view of the fact that Sheikh Abdullah's Government controlled two thirds of the population of the State.

On the question of demilitarization prior to the plebiscite, it appeared that, although the Indian forces in the State were double the strength of the Pakistani forces, the Government of India was prepared to withdraw only twelve Indian battalions against twenty-eight Pakistani battalions.

Regarding India's contention that Pakistan had augmented the Azad Kashmir forces in disregard of the Commission's resolution of 13 August 1948, the representative of Pakistan argued that those forces had been built up before the acceptance of that resolution either by India or by Pakistan. The resolution had been accepted by India on 23 December and by Pakistan on 25 December. Obligations deriving from it, therefore, could not have arisen before that date. Moreover, the clause precluding the augmentation of forces occurred in paragraph B of part 1 of the resolution which related to the cease-fire order. It was thus obvious that the provision was to apply once fighting had stopped. But the fighting had continued till 1 January 1949. Further the obligation would have been mutual. But India had mounted an offensive in November 1948, in contravention of the Commission's resolution of 19 September to which both sides had agreed. As a result of that offensive, certain areas had been taken by India and were now on the Indian side of the cease-fire line. Under such circumstances it could not be expected that the Azad Kashmir forces should not be built up.

The representative of Pakistan stated also that, according to the Commission's resolutions of 13 August 1948 and 5 January 1949, the disarming and disbanding of the Azad Kashmir forces was not contemplated during the truce stage. It was evident, from the explanations given by the Commission to the Government of India and from the communications of that Government to the Commission, that India fully understood this position. Yet from 10 March 1949 the Government of India had begun to shift from that position, and had eventually demanded the disbanding of the Azad Kashmir forces during the truce stage.

The representative of Pakistan considered that the guarantees given for the security of the northern area against tribal incursions should be satisfactory to India, since, according to the McNaughton proposals, the military adviser would have to be satisfied that the arrangements were adequate. Nothing had happened in that area between 13 August 1948 and 5 January 1949 to justify claims for posting Indian forces there. Pakistan could not accept India's contention that, in order to maintain the integrity of the State as a whole, the areas held by Azad Kashmir forces should be under Sheikh Abdullah's administration or under India's military control. That condition was not envisaged by the Commission, which had specifically repudiated such an interpretation. The argument raised by the representative of India, as to how the Plebiscite Administrator could derive his powers from the State of Jammu and Kashmir if the State had no authority over the northern area,

could not stand. The Commission had explained that all it had contemplated in that respect was that, as a matter of legal technicality, the Plebiscite Administrator should be deemed to have derived his powers from the State of Jammu and Kashmir considered as a legal entity. There was no mention of the Government of Jammu and Kashmir and of the Azad Kashmir Government in that connexion.

The representative of India, in reply, maintained, among other things, that Pakistan could not justify the sending of its troops into Kashmir as an act of self-defence. There had been no armed attack on Pakistan and it had not reported its action to the Security Council, as it was bound under the Charter to do. Although Pakistan stated that it had given no help to the raiders, it had found it necessary to enter Kashmir to hold the line when the raiders were on the point of being expelled by India.

With regard to the Azad Kashmir forces, India had held consistently that they should be disarmed and disbanded before the Indian army was withdrawn: whether this was during the truce or the plebicite stage was, in the opinion of the representative of India, immaterial. He maintained that it was not these forces but people led by the present head of the People's Government, Sheikh Abdullah, who had battled for freedom in the State for the last twenty years.

Concerning the "northern areas", India had received assurances from the Commission that the provision for their administration by local authorities would not be applied so as to bring into question the sovereignty of the Jammu and Kashmir Government over those areas.

The accession of the State, the representative of India maintained, must be based on the will of the people, not on strategic or economic considerations. Kashmir differed from other Indian States with predominantly Hindu populations and Muslim rulers in that a large section of its Muslim population wished to remain in India. The representative of India also referred to hundreds of thousands of Hindu and even Muslim refugees which, he said, had streamed across the Indian side of the cease-fire line.

The representative of Pakistan, in a concluding statement, stressed that the two parties had agreed to the Commission's resolutions of 13 August 1948 and 5 January 1949. Situations anterior to these resolutions could not, therefore, be put forward today as obstructing their implementation. He further stated that his Government was prepared to submit to arbitration the differences which had arisen with regard to the implementation of part 2 of the Commission's resolution of 13 August 1948, and to accept the McNaughton proposals.

3. Resolution of 14 March

At the 467th meeting, on 24 February 1950, the representatives of Cuba, Norway, the United Kingdom and the United States submitted the following draft resolution (S/1461):

Having received and noted the reports of the United Nations Commission for India and Pakistan, established by the resolutions of 20 January and 21 April 1948;

Having also received and noted the report of General A. G. L. McNaughton on the outcome of his discussions with the representatives of India and Pakistan which were initiated in pursuance of the decision taken by the Security Council on 17 December 1949;

Commending the Governments of India and Pakistan for their statesmanlike action in reaching the agreements embodied in the United Nations Commission's resolutions of 13 August 1948 and 5 January 1949 for a cease fire, for the demilitarization of the State of Jammu and Kashmir and for the determination of its final disposition in accordance with the will of the people through the democratic method of a free and impartial plebiscite and commending the parties in particular for their action in partially implementing these resolutions by

(1) The cessation of hostilities effected 1 January 1949

(2) The establishment of a cease fire line on 27 July 1949 and

(3) The agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator;[86]

Considering that the resolution of the outstanding difficulties should be based upon the substantial measure of agreement on fundamental principles already reached, and that steps should be taken forthwith for the demilitarization of the State and for the expeditious determination of its future in accordance with the freely expressed will of the inhabitants;

The Security Council,

1. Calls upon the Governments of India and Pakistan to make immediate arrangements, without prejudice to their rights or claims and with due regard to the requirements of law and order, to prepare and execute within a period of five months from the date of this resolution a programme of demilitarization on the basis of the principles of paragarph 2 of General McNaughton's proposal or of such modifications of those principles as may be mutually agreed;

[86] Admiral Nimitz was nominated by the Secretary-General on 21 Mar. 1949, in accordance with the resolution of the United Nations Commission for India and Pakistan of 5 Jan. 1949, but, in accordance with the Commission's resolution of 13 Aug. 1948, he was to take up his functions only after agreement had been reached on the principles to form the basis of a truce agreement.

2. Decides to appoint a United Nations Representative for the following purposes who shall have authority to perform his functions in such place or places as he may deem appropriate:

(a) to assist in the preparation and to supervise the implementation of the programme of demilitarization referred to above and to interpret the agreements reached by the parties for demilitarization,

(b) to place himself at the disposal of the Governments of India and Pakistan and to place before these Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir,

(c) to exercise all of the powers and responsibilities devolving upon the United Nations Commission by reason of existing resolutions of the Security Council and by reason of the agreement of the parties embodied in the resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949,

(d) to arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite Administrator of the functions assigned to the latter under agreements made between the parties,

(e) to report to the Security Council as he may consider necessary submitting his conclusions and any recommendations which he may desire to make;

3. Requests the two Governments to take all necessary precautions to ensure that their agreements regarding the cease fire shall continue to be faithfully observed, and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations;

4. Extends its best thanks to the members of the United Nations Commission for India and Pakistan and to General A. G. L. McNaughton for their arduous and fruitful labours;

5. Agrees that the United Nations Commission for India and Pakistan shall be terminated, and decides that this shall take place one month after both parties have informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.

The representatives of China, Cuba, Ecuador, France, Norway, the United Kingdom and the United States made statements in support of the draft resolution. They were agreed that the essential provisions of General McNaughton's proposals were just and fair. The representative of the United States recalled the Commission's statement that the entry of the Indian forces into the northern area would lead to renewed hostilities. He therefore considered it reasonable that the Commission had not recommended a change in the administration of the area.

Clarifying the provisions of the draft resolution, the representative of the United Kingdom stated at the 469th meeting of the Council that in working out a programme of demilitarization, it would be expected that due account would be taken of the opinion of the Council, and that the programme would follow broadly the lines indicated by General McNaughton; that the United Nations representative would be guided by the statements made by the Security Council members. However, the United Nations Representative would have a certain amount of discretion to make adjustments in the programme in the light of any fresh considerations which might arise. The demilitarization programme should be dealt with as a whole and accomplished within a single period, leaving only the minimum of forces for final disposal under the 5 January 1949 resolution of the United Nations Commission for India and Pakistan. The programme should embrace all forces within the State, should include all areas of the State (including the northern areas), and should be so designed as to reduce to the minimum the possibility of any recrudescence of fighting or disturbances. The sponsors assumed that there could be no question of introducing changes in the administration of the northern areas. If the United Nations Representative, however, did find that assumption unwarranted, the draft resolution did not preclude his suggesting other arrangements.

The Council expected every suggestion which the United Nations Representative might make to be compatible with the agreed objective of a free and impartial plebiscite. Only if he should find, after investigation on the spot, that the agreed objective was impracticable, would he be expected to make suggestions at variance with it. The mandate of the United Nations Representative had been made as extensive as it was in order to ensure that he would be duly empowered to make appropriate suggestions in all contingencies.

The representative of India reaffirmed the views of his Government as expressed at the 463rd meeting (7 February 1950) (see above), with regard to paragraph 1 of the draft resolution. With regard to paragraph 2, proposing the appointment of a United Nations representative, he stated his Government's preference for the assignment of the function of such a representative to three individuals, one to be nominated by it, one by the Government of Pakistan and one by the Security Council in consultation with the two Governments. However, if that alternative was not accepted, the Indian Government desired that a person acceptable to it should be selected as the United Nations representative.

The representative of Pakistan considered that, if the Council entertained any possibility of a solution whereby the "northern areas" would be administered by an authority other than the present administration, it would be fair to inform his

Government of it so that it might consider whether it could accept such a possibility.

He further raised certain questions in the light of the United Kingdom statement of clarification, concerning the powers of the proposed United Nations Representative. Would this Representative be expected to make suggestions at variance with the agreed objective of a fair and impartial plebiscite, if he should find, after an investigation, that this was impracticable? The United Kingdom statement, he said, opened a way for the parties to demand such an investigation before the United Nations Representative undertook his duties. If one of the parties created conditions which made the organizing and holding of a free and impartial plebiscite impracticable, would the United Nations Representative be within his rights in making suggestions at variance with that objective? The main features of the draft resolution, he stated, were acceptable to his Government but its ultimate acceptance would rest largely on the clarification of those points.

At the 470th meeting (14 March 1950), the representative of India declared that his Government, while adhering to his statement made at the 463rd meeting and assuming that the United Nations Representative would be appointed with the agreement of the parties, accepted the joint draft resolution.

The representative of Pakistan submitted that the provision of the McNaughton proposal that the administration of the "northern areas" should be continued by the existing local authorities needed no clarification, and that the agreed objective that the question of the accession of the State of Jammu and Kashmir to Pakistan or to India was to be determined through the democratic process of a free and impartial plebiscite had to be unswervingly pursued by the United Nations Representative. Having made these submissions, he stated that his Government accepted the joint draft resolution.

At the 470th meeting on 14 March 1950, the draft resolution (S/1461) submitted by the representatives of Cuba, Norway, the United Kingdom and the United States was adopted by 8 votes in favour, with 2 abstentions (India, Yugoslavia), and one member (USSR) absent.

At the 471st meeting on 12 April 1950, the Council appointed Sir Owen Dixon of Australia, as United Nations Representative for India and Pakistan, by 8 votes in favour, with 2 abstentions (India, Yugoslavia), and one member (USSR) absent.

In conformity with the resolution adopted by the Security Council at its 470th meeting, the Government of Pakistan, on 15 May, and the Government of India, on 1 June, notified their acceptance of the transfer to the United Nations Representative of the powers and responsibilities of the United Nations Commission for India and Pakistan (S/1490).

4. Report of the United Nations Representative

The United Nations Representative for India and Pakistan submitted his report (S/1791) on 15 September 1950. He reported that no agreement had been reached between India and Pakistan on the demilitarization of the State of Jammu and Kashmir and on other preparations for the holding of a free and impartial plebiscite. In numerous conferences attended by him and the Prime Ministers of India and Pakistan he had put forward the following proposals:

a. DEMILITARIZATION

(i) Withdrawal of regular forces of the Pakistan army, to begin on a specified day, as the first step towards demilitarization

(ii) Commencement of the withdrawal of the Indian regular army after "a significant number of days" had elapsed, and withdrawal or disarming and disbandment of the Jammu and Kashmir State forces, and the disarming and disbandment of the State militia

(iii) Disarming and disbandment of the Azad Kashmir forces and the northern scouts

(iv) The forces that either party might need after demilitarization, and pending plebiscite, to be determined according to parties, by the Chiefs of Staff in consultation with the United Nations Military Adviser

This plan was rejected by the Prime Minister of India, who cited, among other points, the possibility of Pakistan making an attack and the need for protecting the area against marauders.

b. ADMINISTRATION

The United Nations Representative proposed the following:

(i) The area west of the cease-fire line, when evacuated by Pakistani troops, should be administered by local authorities—that is, existing District Magistrates or subordinate officers—according to the law and custom of the State as they existed before the dispute arose. Each District Magistrate was to be under the supervision of a United Nations Officer.

(ii) In regard to northern areas, it was proposed that political agents appointed by the United Nations should administer the territory instead of the present assistant political agents.

The first proposal was also rejected by the Prime Minister of India, chiefly on the ground that it recognized the existing officers, some of whom had replaced former officers, and who might be repugnant to India. The second plan was also rejected by the Prime Minister of India, who did not put forward an alternative proposal.

c. PLEBISCITE

The proposal of the United Nations Representative provided that a United Nations officer would be attached to each District Magistrate to ensure freedom of the plebiscite, and that no arrests under emergency powers would be made without his previous written consent. It was also provided that all prisoners detained under emergency or similar powers would be released within seven days of the coming into force of these provisions.

This proposal was also rejected by the Prime Minister of India, and no alternative proposals or modifications were suggested.

The United Nations Representative then put forward plans for bringing into existence for the plebiscite period, a single government for the whole State. The plans were of three descriptions:

(i) A coalition government, representing both parties in Kashmir

(ii) An administration consisting of trusted persons outside politics holding high judicial or administrative office, the chairman being appointed by the United Nations

(iii) An administration set up wholly by the United Nations

None of these suggestions were acceptable to the Indian Prime Minister.

d. PARTITION

The United Nations Representative further reported that he had made an effort to negotiate a settlement by means of a partition of the State either outright or combined with a partial plebiscite limited to an area which would include the Valley of Kashmir. The Prime Minister of Pakistan was opposed to this plan on the ground that it would mean a breach on India's part of the agreement that the destination of the State as a whole should be decided by a single plebiscite taken over the entire State. The United Nations representative, however, considered that no agreed settlement could be brought about except by some such means. He therefore ascertained that India would be prepared to discuss a settlement on the basis of certain first principles. These were:

(a) that the areas of the State where there was no apparent doubt as to the wishes of the people should go to India or Pakistan without a plebiscite;

(b) that the plebiscite should be limited to those areas where there was doubt;

(c) that the demarcation line should have due regard to geographical features and to the requirements of an international boundary.

In applying these principles, the United Nations Representative reported, the Government of India had been led to the following tentative conclusions:

(i) There should be a plebiscite in the Valley of Kashmir.

(ii) The following areas should go to India:

(a) The Province of Jammu so far as it lies east of the cease-fire line, subject to minor corrections;

(b) The tehsil of Ladakh and the tehsil of Kargil in Ladakh district with the exception of the area above the Suru River, which, it was suggested, should go to India or to Pakistan according to the result of the plebiscite in the Valley;

(iii) India was willing that the following areas should go to Pakistan:

(a) Gilgit, Gilgit Agency, Gilgit Wazarat, political districts, tribal territory and Baltistan and so much of the Jammu Province as lies west of the cease-fire line as corrected.

India contemplated a boundary commission to apply on the ground the division which might be decided on.

The United Nations Representative further reported that India was prepared to include in any such settlement a provision that India would not divert by an artificial works in the State the waters of the Chenab River or reduce substantially the flow of the waters of the river, except that it might construct canals for irrigation confined within the State. India also reserved the right to establish hydro-electric works for the production of electrical energy without reducing the waters of the stream.

The territorial demands by India appeared to the United Nations Representative to go much beyond what was reasonable according to his "conception of the situation," and he so stated to Indian authorities.

The Government of Pakistan declined to attend a conference to discuss, in the light of the position taken by India, the possibility of settling the dispute. However, the United Nations Representative reported, if a basis of the suggested settlement had been simple partition, "a solution having the advantages of being immediate in its operation and self-executing," Pakistan would have considered the matter provided that the Valley of Kashmir went to Pakistan. The Prime Minister of India, in turn, the United Nations Representative reported, declined to consider at all an over-all partition in which the Valley of Kashmir would go to Pakistan.

e. PARTITION AND PARTIAL PLEBISCITE

The United Nations Representative had intended, finally, to put forward a plan for holding a partial plebiscite in a limited area, including or consisting of the Valley of Kashmir, and for partitioning the rest of the State. This plan envisaged the setting up of an administrative body of United Nations Officers under a Plebiscite Administrator, with powers to exclude troops of every description. If it was decided that, if for any purpose troops were necessary, the United Nations Plebiscite Administrators could ask both parties to provide them. In so far as the Administrators allowed the views of the two sides to be laid before the people of the limited area, they would have the power to secure to India and Pakistan equality in this and other respects. This plan was intended to have been put forward if both parties agreed to attend a conference on its basis.

During the course of preliminary discussions, however, the United Nations Representative ascertained that India would not agree to a meeting at which Pakistan might insist that it would not consider any plan based on partition and partial plebiscite. Pakistan, on the other hand, would agree to attending a conference only if India would accept specific measures for ensuring the freedom and fairness of the plebiscite—measures which the United Nations Representative had intended to include in the plan. The Prime Minister of India gave an "emphatic refusal" to agree to the provisions relating to the plebiscite proposed by the United Nations Representative. The objections of the Prime Minister of India to these provisions were:

(i) Pakistan was an aggressor and it would be a surrender to aggression to allow it to take part in the plebiscite. For the same reason and because of the danger involved, Pakistan's troops could never be allowed to enter the plebiscite area.

(ii) The provision relating to administration would mean that the Government of the State would be superseded; it went far beyond what was necessary for the purpose in view.

(iii) Only those people belonging to the State of Jammu and Kashmir should be allowed participation in the "campaign" over the plebiscite. There could be no equality of any right between India and Pakistan in this or other relevant respects,

(iv) The security of the State would be endangered.

After considering these objections, the United Nations Representative reported, he could see no reason for departing from the provisions he had intended to include.

He considered that he "could not expose a plebiscite conducted under the authority of the United Nations to the dangers" which, he believed, "certainly" existed. He came to the conclusion, it was stated, that it would be "impossible to give effect to the doctrines formulated by India" in objection to his plan, and at the same time "frame a plan for partition which" he "could ask Pakistan to accept".

Summing up, the United Nations Representative recalled that both Governments had accepted the principle that the question of the accession of the State would be decided through a free and impartial plebiscite. "Unfortunately", however, removal of the many obstacles to the holding of such a plebiscite "has been made dependent upon the agreement of the parties". The Representative commented that both the United Nations Commission for India and Pakistan and himself had failed in their efforts to secure an agreement on practical measures for a plebiscite, and both parties concurred in the view that the possibilities of agreement had been exhausted. He concluded that the only chance of settling the dispute by agreement lay in partition and in some means of allocating the Valley, rather than in an over-all plebiscite. It was, in his view, "perhaps" best that the initiative should now pass back to the parties themselves. He was not prepared to recommend any further course of action on the part of the Security Council. He recommended, however, that the Security Council should press for a reduction in the military strength of the parties holding the cease-fire line to the normal protection of a peace-time frontier, as he considered the continued maintenance of such armies to be fraught with dangerous possibilities. In a covering letter, Sir Owen Dixon asked the President of the Security Council to relieve him of his position as United Nations Representative for India and Pakistan.

The President, at the 503rd meeting of the Council, on 26 September, expressed the Council's gratitude to the United Nations Representative for India and Pakistan and stated the Council's wish to release him as he had requested from the mission with which he had been charged.

By letter dated 14 December 1950 (S/1942) addressed to the President of the Security Council, the representative of Pakistan drew the attention of the Council to the report of the United Nations Representative for India and Pakistan regarding the failure of the mission entrusted to him by the Security Council resolution of 14 March 1950. In the meantime, the letter stated, the Government of India and the Maharaja's

Government in Kashmir were taking steps to prejudice the holding of the plebiscite. A resolution had been adopted by the All-Jammu and Kashmir National Conference on 27 October 1950, proposing the convening of a Constituent Assembly to determine "the future shape and affiliations of the State". According to Indian press reports, the Prime Minister of India had welcomed this move and had declared that the proposed Constituent Assembly would "ratify the formal accession of the State to India". Later press reports indicated that a formal proclamation to hold elections to the proposed Constituent Assembly was about to be promulgated by the Maharaja's Government.

This move, the representative of Pakistan stated, sought to nullify the international agreement between India and Pakistan embodied in the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and endorsed by the Security Council.

The letter called for urgent consideration of the question and implementation of the international agreement referred to. The Council was also requested to call upon India to refrain from proceeding with the proposal for a Constituent Assembly and from taking such other action as might prejudice the holding of a free and impartial plebiscite.

Further discussion of the India-Pakistan question by the Security Council did not take place during 1950. The Council remains seized of this question.

E. THE PALESTINE QUESTION[87]

1. Complaints to the Security Council of Armistice Violations

At its 514th, 517th, 518th, 522nd and 524th meetings on 20 and 30 October and on 6, 13 and 17 November, respectively, the Security Council considered the following items relating to Palestine:

1. Complaint by Egypt (S/1790) dated 15 September 1950, that Israel had expelled "thousands of Palestinian Arabs into Egyptian territory in violation of the Egyptian-Israeli Armistice Agreement"
2. Complaint by Israel (S/1794) dated 16 September 1950, that Egypt had violated the Egyptian-Israeli armistice agreement through the maintenance of blockade practices inconsistent with the letter and the spirit of that agreement; that Egypt and Jordan had failed to observe the procedures laid down in their respective agreements providing that claims or complaints presented by either party shall be referred immediately to the Mixed Armistice Commission through its Chairman; that Egypt and Jordan had violated their respective armistice agreements with Israel by officially and publicly threatening aggressive action contrary to those agreements, and that Jordan had violated the Israel-Jordan armistice agreement through non-implementation of provisions relating to Jerusalem
3. Complaint by Jordan (S/1824) dated 29 September 1950, that Israel had committed an act of aggression against Jordan by occupying Jordan territory situated near the confluence of the rivers Yarmuk and Jordan

At the invitation of the Council the representatives of Israel and Jordan participated without vote in the Council's discussions. Maj.-General William E. Riley, Chief of Staff of the United Nations Truce Supervision Organization in Palestine and Chairman of the Mixed Armistice Commissions and Dr." Ralph J. Bunche, former Acting Mediator in Palestine, answered questions put to them by the representatives of Egypt, Israel and Jordan and by members of the Council.

a. THE EGYPTIAN COMPLAINT

Speaking at the Council's 514th meeting, the representative of Egypt quoted a letter (S/1789) from the Foreign Minister of Egypt to the Secretary-General which charged that beginning on 20 August 1950 Israeli authorities had by armed force expelled into Egyptian territory all the Bedouin living in the demilitarized zone of El Auja in Palestine. United Nations observers, the letter stated, had "found" that thirteen Arabs including women and children had died during the exodus and bodies of several more had been found crushed by armoured vehicles. By 3 September, the number of expelled Arabs had reached 4,071. These Arabs were genuine Palestinians, the representative of Egypt stated, and most of them had lived in the Beersheba area of Palestine during the period of the British Mandate. Driven from their homes for the first time when the Israelis occupied that important area, they had

[87] For previous consideration of the Palestine question, see Y.U.N., 1947-48, pp. 227-81, 403-51; 1948-49, pp. 166-212.

gone to settle in El Auja area—since demilitarized—where they had been living for more than two years. Now they asked to return to that area under United Nations protection, failing which, the representative of Egypt said, they would try to reoccupy it by force, which would lead to disturbances.

The representative of Egypt maintained that this mass expulsion of Arabs from the Negeb by Israeli forces constituted a violation both of Egypt's international frontier and of the demilitarized zone of El Auja. Similar expulsions, he said, had taken place from Haifa, Acre, Galilee, Jerusalem, Ramleh, El Majdel and other districts under Israeli control after the signing of the still valid armistice agreement. The expelled Arabs had been made to sign certificates that they had elected to leave Israel of their own will and that they had voluntarily renounced their property and interests in Israel. The Egyptian Government, he said, asked that the United Nations put a stop to further expulsions which were taking place and arrange for aid and assistance to these new refugees in returning to their homes and in recovering their properties and receiving compensation for damages. Meanwhile, it was requested, the United Nations Relief and Works Agency for Palestine Refugees in the Near East should accept responsibility for these refugees.

Apart from these violations of rights allegedly committed by Israel the representative of Egypt cited the following as violations of the Egyptian-Israeli Armistice Agreement: (i) the advance on and occupation of Bir Qattar by Israel on 10 March 1949; (ii) occupation of Um Rash Rash on the Gulf of Akaba on the same day, in violation of the cease-fire ordered by the Security Council; (iii) the shelling of the village of Abasan el Saghir with about 50 mortar shells on 7 October 1949; (iv) the shelling of Beit Hanoun area seven days later; (v) the crossing, on 30 June 1950, of the armistice line east of Rafah and attack on its civilian population, which was, it was claimed, repelled by Egyptian forces.

In reply, the representative of Israel stated that the correct procedure for settling complaints such as those now brought before the Council was to bring them before the Mixed Armistice Commissions. Israel had brought 40 or 50 instances of Egyptian violations of armistice terms before the Commission and many of them had been settled through that machinery. Egypt, however, had violated that procedure by bringing these complaints directly to the Council despite the fact that out of the five armistice items to which he had referred, four had already been settled. Only one—that relating to Bir Qattar—remained outstanding and was subject to appeal. This "unilateral diversion" of procedure, he maintained, was designed for propaganda purposes and threatened to dislocate and paralyse the functioning of the armistice system. Israel had therefore made this violation of the accepted procedures the subject of a specific complaint (S/1794) to the Security Council.

Dealing with the charges brought by Egypt regarding (i) violation of Egyptian territory; (ii) violation of the demilitarized zone of El Auja; (iii) the expulsion of Bedouin from El Auja and (iv) expulsion of civilian Arabs from Majdal, the representative of Israel asserted that they were "utterly and completely false". He said that according to the armistice agreement signed in February 1949 after the cessation of fighting in the Negeb area, it was stipulated that whoever found himself in Egyptian territory when the armistice was signed could cross into Israeli territory only with the permission of Israeli authorities, and vice versa. For either party to oppose unauthorized infiltrations from the other side was thus in full accord with the agreement.

When fighting had ceased, the representative of Israel explained, there were some 5,000 Bedouin in the Northern Negeb whose status as residents had been fully and immediately recognized. In addition, the Government of Israel had issued permits, identification certificates and ration cards to 12,500 other Bedouin who had permanently settled in Israeli territory when the armistice was signed. The first of these groups was admitted in November 1948, and the second in April 1949. In the strict sense of the agreement, entry could have been refused to all persons who had come across the armistice frontier. But Israel had applied the provision only against two sections of the Azazmeh tribe which had fought fiercely against Israel during 1948, had fled to the Sinai peninsula in Egypt and were living there when the armistice agreement was signed. They numbered, it was stated, 200 families and not 4,000 persons as alleged by Egypt, and they had been expelled from Israeli territory as unauthorized infiltrators. Israel, it was contended, was fully entitled to oppose the infiltration of a hostile tribe which was in Egyptian territory when the armistice was signed. The officer presiding over the Mixed Armistice Commission, having heard both sides, had concluded on 26 September that these tribesmen had to be considered infiltrators, having no Israeli identification cards.

In regard to the Egyptian complaint alleging the forcible expulsion of Arab civilians from Majdal, the representative of Israel recalled that the population of Majdal, at the time of the cease-fire, was largely a refugee population. Many of these Arabs had their families in the Gaza area under Egyptian control. Between 14 June and 19 September, 1,159 Arabs had applied to Israeli authorities in Majdal for permission to cross with their dependants into Gaza. It was arranged for these applicants to sell their movable properties in the Mandate currency which was still valid in the Arab areas. The departing Arabs had taken the equivalent of $400,000 in foreign exchange and the signatures they had left behind, to which reference had been made by the representative of Egypt, referred mainly to these transactions. When the matter was discussed before the Egyptian-Israeli Mixed Armistice Commission on 11 August 1950, Egypt had raised no objection to the movement except that it should not have been allowed without prior notice to the Egyptian authorities. All later movements were, therefore, duly notified to Egypt and were conducted with its co-operation and in the full light of publicity. Egypt had received United Nations relief allocations for the Arabs and had provided them with employment. It could not, therefore, it was argued, be held that these civilians had been forcibly expelled.

Replying to the representative of Israel, the representative of Egypt stressed the following points:

(a) The representative of Israel, had not submitted any proofs that the tribes expelled from El Auja were infiltrators. Israel had not brought the "infiltration" to the attention of the Mixed Armistice Commission and had therefore no right to send unidentified men into the territory of a foreign country.

(b) The acting chairman of the Egyptian-Israeli Mixed Armistice Commission had reported, after questioning the representatives of several (and not only the Azazmeh) tribes, that they had testified to having been expelled by means of a "vast army operation" conducted by Israel with the help of a reconnaissance plane, armoured and command cars and machine guns. The army had, they testified, followed them up to the Egyptian frontier.

(c) As regards the expulsion of civilian Arabs from Majdal and other areas, Egypt had accepted them on humanitarian grounds as they would otherwise have been exposed to "torture and death". That however did not mean their voluntary movement. Furthermore, testimony of the expelled Arabs and reports of the Mixed Armistice Commission clearly showed that they had been forcibly expelled.

(d) As regards frontier violations, they had all been brought to the notice of the Mixed Armistice Commission, which had investigated them. For instance, the Commission's decision, later confirmed by its Special Committee, in the case of Bir Qattar was that "the advance of Israeli forces on 10 March 1949, to the Gulf of Akaba area and the occupation of Bir Qattar is a violation of Article IV, paragraphs 1 and 2 of the Egyptian-Israeli General Armistice Agreement". This decision, in accordance with the terms of the armistice agreement, was final, and the case was therefore not outstanding and subject to appeal as had been claimed by the representative of Israel.

(e) The Israeli contention that Egypt had no right to come to the Council with its present complaints was erroneous because the Council was the final authority in all matters relating to the armistice agreements and was competent to deal with all matters affecting world peace. Moreover, the complaints of Egypt ranged over a wider field than that strictly covered by the General Armistice Agreement.

The representative of Israel stated that nothing the representative of Egypt had said would induce him to modify his earlier conclusion. The effort made by the representative of Egypt to prove that any expulsion of legitimate residents took place was, he said, contradicted by the Chairman of the Mixed Armistice Commission, who stated, on 26 September, that only those Bedouin were entitled to be regarded as legitimate residents of Israel who possessed certificates to that effect.

Turning to the references made by the representative of Egypt to "reports of the United Nations observers", the representative of Israel stated that the substantive statements contained in these reports were not authoritative judgments that the alleged events had taken place. They were nothing but summaries of individual statements by one of the parties. The only descriptions of events which could be taken seriously were those made in the presence of all the parties in the Mixed Armistice Commissions themselves.

Despite a Security Council appeal, the representative of Israel observed, the Arab States—notably Egypt—had refused any contact with Israel, either directly or through the Palestine Conciliation Commission, with a view to achieving a final settlement. This very refusal, he emphasized, was tantamount to a firm decision not to allow peace to be restored in the Near East.

b. THE COMPLAINT OF JORDAN

The representative of Jordan stated that on 28 August Israel had occupied Jordanian territory at the confluence of the Jordan and Yarmuk rivers — "a definite act of aggression" which endangered the stability of the whole area. Israel, he said, had justified its action by stating that the territory in question was shown in the map attached to the armistice agreement between Jordan and Israel signed at Rhodes as being within Israeli jurisdiction. But, the representative of Jordan contended, an armistice agreement could not modify

international frontiers. The inclusion of that piece of territory on the Israeli side of the armistice line could not be justified even by military considerations since at the time of the armistice no opposing forces had confronted each other in that area, and the demarcation lines should have followed the course of the Jordan River, or, taking the alternative more favourable to Israel, should have coincided with the international frontier between Palestine and Jordan. Moreover, it was argued, the agreement itself provided that no military or political advantage should be gained under the truce. Further, negotiators could commit their their Governments only within the limits of their credentials, and the Jordanian negotiators never received authority to cede any part of Jordanian territory to Israel.

Another circumstance proving that the territory in question belonged, it was stated, to Jordan was the fact that Israeli occupation of that territory had taken place not within the fifteen weeks period provided for by the agreement but more than a year and a half after the armistice lines had been established. During all that time the area had remained under Jordanian sovereignty as in the past.

The Israeli justification for Israel's "aggression" related not to the text of the agreement or to its principle but only to the map attached. But, it was maintained, the map in question was a copy and not the original map of the armistice agreement. Describing the original map which had defined the armistice lines and which had been signed by the representatives of the parties at Shuneh, the representative of Jordan stated that it had been drawn on a scale of 1/100,000 and was composed of two portions, one of which was section A, covering northern Palestine and part of the adjacent States. That section, A, included the Jordanian area which was the scene of "aggression" on 28 August, an area which was not affected by armistice lines. The other section, B, covered southern Palestine. In accordance with the credentials of the Jordanian negotiators, each of the two sections bore their signatures. No other map, not bearing the signatures of two of the Jordanian negotiators, could, it was stated, bind the Government of Jordan. Towards the end of the negotiations at Rhodes, it was proposed to draw up a new, smaller map for convenience. This was drawn on a scale of 1/250,000. But during the transcription to a smaller scale, the armistice demarcation lines were changed so as to include the recently invaded Jordanian area within the territory under Israeli authority. And this section did not bear the signatures of the Jordan delegates. The new map attached to the Rhodes agreement bore the signatures of two Israeli negotiators but of only one negotiator from Jordan, who had signed it as a mere copy on the assumption that the basis of reference would still be the original Shuneh map. The small map, it was contended, was inaccurate. If the original map was in the possession of the Chairman of the Armistice Commission, it should be produced. If it could not be produced, then Jordan was entitled to question why it had disappeared.

In reply, the representative of Israel stated that Jordan appeared to be accusing its own representative of having signed a map not reflecting the true intentions of his Government. Even if this were true the responsibility could not be Israel's. In any case, he argued, the most recently authenticated map bearing the signatures of both contracting parties was signed on 22 June 1949 and was deposited with the United Nations. This map bore the signature of General Glubb Pasha four times on each relevant section. That this small area was on the Israel side of the armistice line was proved by the original map, which bore one signature for Israel and one for Jordan, and also by the revised map, now the master map, certified on 22 June 1949, with the signatures of Colonel Moshe Dayan for Israel and General Glubb Pasha for Jordan. The representative of Jordan had sought to prove that one of these maps bore two signatures for Israel and only one for Jordan, and that the Jordan ratification was thus not complete. But the map in question bore only one signature of the Israeli delegate, that of Colonel Dayan, first in Hebrew and then in Latin characters.

As regards the modification of international frontiers referred to by the representative of Jordan, the representative of Israel contended that armistice lines did not have any essential relation to previous international frontiers. He recalled that Palestine's international frontiers had been ignored at the time of Arab "interventionist" war against Israel. Those frontiers, he said, could not now be invoked by the very countries which had violated them. As a matter of fact, he stated, during the armistice negotiations Jordan had successfully urged that the old international frontier should not be used as a basis for the armistice agreement. Thus, Jordan had benefited by changes in respect of other territories a thousand times as great as the present disputed area which, he said, was insignificant. Israel, he concluded, took its stand on the text and the demarcation of the armistice documents.

However, the representative of Israel maintained, the qualified tribunal in this case was the Mixed Armistice Commission; and, faced by the constant refusal of Jordan to submit its case to this Commission, Israel itself had requested an emergency meeting of the Commission to discuss and vote on the question as to whether the disputed area lay on the Israel side of the demarcation line or on the Jordan side. If the Jordan Government refused to discuss its complaint it would be reasonable for Israel to assume that the complaint was not seriously entertained by the Jordan Government itself.

The representative of Israel further stated that before a fruitful discussion could take place, certain questions of form must be settled. These were:

(i) Israel still awaited a reply to its letter of 18 September to the Chairman of the Mixed Armistice Commission with reference to a published threat by Jordan Ministers to use armed force for the purpose of changing the armistice lines. This threat was the subject of specific complaint by Israel to the Security Council (S/1794). It was a violation of the agreement, which stated not only that force must not be used but also that the parties must not threaten to use it.

(ii) The complaint by Jordan (S/1824) also persistently referred to an alleged forgery of armistice maps. If there was any implication that any map or document had been forged by the representatives of the Israeli Government or armed forces, it was a false and insulting suggestion and must be unconditionally withdrawn.

c. THE ISRAELI COMPLAINT

The representative of Israel then voiced the complaints of Israel regarding the blockade by Egypt of shipping destined for Israeli ports. This, he said, involved not only an illegal attempt to undermine Israel's economy by force, but also periodic molestation of the ships and vessels of Member States lawfully traversing the Suez Canal. In this connexion, the representative of Israel recalled an earlier statement before the Council made by himself and a supporting statement by Dr. Ralph Bunche, who had said, inter alia, that "there should be free movement of legitimate shipping, and no vestiges of the wartime blockade should be allowed to remain, as they are inconsistent with both the letter and the spirit of the armistice agreement."[88] This interpretation of Dr. Bunche was subsequently supported by most members of the Security Council and by the Chairman of the Mixed Armistice Commission, the representative of Israel stated. The United Kingdom, Norway, Australia and the United States had officially protested to Egypt against interference with their shipping on the ground that certain goods were destined for Israel. The Egyptian action, the representative of Israel charged, was a violation of the Charter, a violation of the armistice agreement, a general breach of international law and a particular violation of the specific conventions relating to the Suez Canal.

A similar violation, he said, had been committed by Jordan, which had failed to implement Article VIII of the Israel-Jordan armistice agreement relating to Jerusalem, thereby preventing access to Holy Places, impairing the water supply of the city of Jerusalem, preventing the normal functioning of the Hebrew University and the Hadassah Medical Centre and preventing normal traffic on vital roads. Jordan, the representative of Israel stated, remained unwilling to discuss in the Special Committee formed under the armistice agreement the requisite plans for the implementation of these provisions. Israel, he stated, did not despair of a solution, but the Security Council, if it was studying the working of the armistice system, should keep in mind these "fundamental, protracted and persistent violations".

Maj.-General Riley and Dr. Bunche then answered questions put to them by the President and the representatives of Egypt, Israel, Jordan and the United Kingdom. The main points emerging from the testimony of General Riley were as follows:

1. That all questions which had been put before the Council could be handled by the Mixed Armistice Commission, "provided the parties themselves act in good faith and are willing to place the questions before the Commission and abide by its rulings".

2. That in the case of Bir Qattar, the Commission's decision that Israel withdraw from that region had not been carried out but "he had not given up hope" that the Government of Israel might withdraw from the area.

3. That with the exception of the decision pronounced by the Mixed Armistice Commission in August 1949 in connexion with the Suez Canal blockade, all other decisions of the Commission had been carried out by Egypt.

4. That he did not consider that the Armistice Agreement between Israel and Jordan applied to any other map than the one attached in Annex I to the agreement. His knowledge of the "Shuneh" map was confined to having seen it; he knew nothing about the negotiations that actually took place at Shuneh. The map that was signed at Rhodes was regarded as an inaccurate map by the Mixed Armistice Commission at its meeting of 7 May 1949, and in its place a map was drawn and signed by both parties. This was the map signed by General Glubb Pasha and Colonel Dayan. He assumed that the Shuneh map was the source for the delineation of the armistice lines reproduced on this new map.

[88] Security Council's 433rd meeting on 4 Aug. 1949.

5. The disputed ground between Jordan and Israel was originally to the east of the international boundary in Jordan territory. It had not been proved that force was used in occupying the territory.

6. The armistice agreements did not take away the prerogative of States under the Charter to bring a case before the Security Council.

7. The opinion, of 26 September, of the Chairman of the Egyptian-Israeli Mixed Armistice Commission — that certain Bedouin expelled by Israel were infiltrators from Egypt, with no right of residence in Israel — referred to the Bedouin expelled from the neighbourhood of El Auja.

The principal points from the testimony of Dr. Bunche were:

1. He had examined the map attached to the Israeli-Jordan Armistice Agreement carefully; it was entirely in order; there were no erasures on it. So far as he knew there was no basis for questioning its authenticity in anyway.

2. There could be no question that the area complained of by Jordan was territory which was on the Jordan side of the Palestine-Jordan international boundary.

3. Signatures to the Armistice Agreement could only be interpreted as unqualified acceptance of the annexes including the map.

4. The validity of the armistice line was not affected if it did not coincide with the previous international boundary. The Agreement itself covered that contingency by stating that demarcation lines "are agreed upon by the parties without prejudice to future territorial settlements or boundary lines or to claims of either party relating thereto".

5. With reference to the blockade he had hoped that the Security Council resolution (S/1376) of 11 August 1949 would entail the lifting of all restrictions on the purchase of arms by the Governments of the Near East and the abolition of all vestiges of the wartime blockade. That hope, unfortunately had not been realized.

In a further statement, the representative of Israel expressed the willingness of his Government to abide by the decision of the Mixed Armistice Commission of 26 September asking that Israeli forces should be withdrawn from Bir Qattar. He however, reiterated his earlier conclusions regarding the complaint of Jordan, the expulsion of Bedouin from El Auja and transfer of Arab civilians from Majdal to Gaza. As for Israel's complaint of non-implementation by Jordan of provisions relating to Jerusalem, the representative of Israel said that the Security Council could not reconcile itself to a situation in which the highest institutions of learning and health in that area, for which the United Nations was responsible, were not yet functioning. Israel had failed to secure settlement in the Mixed Armistice Commission and the Special Committee, and it was only after prolonged deadlock that it had brought the matter before the Council. This and the blockade of the Suez Canal were two major and continuing violations of the armistice system which claimed the Council's attention.

d. PROPOSAL BY FRANCE, THE UNITED KINGDOM AND THE UNITED STATES

The Council next considered a joint draft resolution (S/1899) submitted by France, the United Kingdom and the United States which would have the Council recall its resolution of 11 August 1949, and, taking into consideration the views expressed by the representatives of Egypt, Israel and Jordan and the Chief of Staff of the Truce Supervision Organization on the complaints submitted to the Council, remind Egypt, Israel and Jordan that the provisions of the armistice agreements were binding and call on them to consent to the handling of their present complaints according to the procedures established in the agreements. In connexion with questions relating to Jerusalem, the proposal would have the Council express the hope that the Special Committee formed under the Armistice Agreement would carry out its functions expeditiously. The proposal would also authorize the Chief of Staff of the Truce Supervision Organization to recommend steps to Israel, Egypt and other Arab States to control by mutual agreement the movement of nomadic Arabs across international frontiers or armistice lines. The draft resolution also would note the statement of the representative of Israel regarding Bir Qattar; urge the States to take all steps to ensure settlement of the issues; and request the Chief of Staff to report in 90 days or before, if necessary, on the compliance with the resolution and on the status of the operations of the various Mixed Commissions, and to submit periodic reports of all decisions made by the Commissions and Special Committee.

Speaking in support of the draft resolution, the representative of the United States expressed his Government's satisfaction that Israel had agreed to abide by the decision of the Egyptian-Israel Special Committee to withdraw its forces from Bir Qattar. However, all other complaints, should, in his opinion, be handled by the Mixed Armistice Commissions or by Special Committees. The United States believed that the Council should show continued interest in the solution of the complaints and should concern itself with the continued effective operation of those Commissions and Committees and with the general effective execution of the armistice agreements.

The representative of the United Kingdom also supported the draft resolution and referred to the

complaint of Israel regarding blockade practices at the Suez Canal. Since 15 May 1948, he stated, the Egyptian Government had insitiuted searches of vessels of all nationalities passing through the Canal by virtue of the rights secured under the Suez Canal Convention. These searches were carried out to find out whether the vessels carried material destined for Israel. On 24 February 1949, an armistice was signed between Egypt and Israel. Since 29 June 1949, in view of the armistice, the definition of contraband by the Egyptian Government was limited, but many categories of goods, including petroleum, still remained subject to condemnation as contraband. Such goods had been seized, and vessels had been detained for varying lengths of time. Such restrictions were still in operation and had affected the shipping of oil to the Haifa refinery, which had become partially inactive as a result. The imposition of these restrictions also raised the legal question of the freedom of passage through the Suez Canal. Further, these restrictions contributed to the continuance of tension in the Middle East. He therefore considered that the question should be settled as soon as possible. He hoped that the Special Committee would take speedy steps to consider the appeal referred to it by the Mixed Armistice Commission. If a majority in the Special Committee recommended some course of action which was not accepted by the minority, then the Security Council should decide what should be done in order to uphold the majority decision.

The representative of Norway associated himself with the remarks of the representative of the United Kingdom.

The representative of France stated that his Government, as a signatory of the Constantinople Convention, was specially concerned over the question relating to the Suez Canal. It had, accordingly, made a strong protest in Cairo. In view of the Special Committee's current examination of specific aspects of the Israeli complaint, however, the Security Council might suspend consideration of this question. As for the substance of the question, his Government agreed with the legal, political and economic reasons given by the United Kingdom representative and recommended that the restrictions complained of be withdrawn forthwith.

A draft resolution by Israel (S/1900) was circulated in accordance with rule 38 of the provisional rules of the Security Council for the consideration of members which, inter alia, would have the Council call upon Egypt to abandon blockade practices and to restore the free movement of shipping through the Suez Canal. It was not, however, pressed for discussion or voting in view of the joint draft resolution (S/1897) and the remarks of the representative of the United Kingdom.

e. EGYPTIAN AMENDMENTS

The representative of Egypt suggested some amendments to the joint draft resolution (S/1899) which, inter alia, would delete the name of Egypt from the third paragraph and introduce a new provision calling on Israel to allow the expelled Arabs to return to Israel-controlled territory, to assure their safety, to safeguard their rights and to give them compensation. The amendments would also call on Israel to stop the expulsion of Arabs.

On behalf of the sponsors, the representative of the United Kingdom presented a revised draft resolution (S/1899) which contained, in place of the new provision suggested by Egypt, a request to the Egyptian-Israeli Mixed Armistice Commission to give urgent attention to the Egyptian complaint on the expulsion of Arabs. It further would call on both parties to give effect to any finding of that Commission regarding the repatriation of any such Arabs who, in the Commission's opinion, were entitled to return. Another revision provided for calling on "the parties involved in the present complaints" to consent to the handling of the complaints according to established procedure, rather than mentioning by name Egypt, Israel and Jordan. It was also provided that the Council call on the Governments concerned to take, in the future, no action involving the transfer of persons across the international frontiers or the armistice lines without prior consultation through the Mixed Armistice Commission.

The representative of Israel commented that the new text implied that the logical conclusion for the Mixed Armistice Commission would be that certain Arabs had been improperly excluded and therefore should be allowed to return. Moreover, the parties were not to be called upon to obey any finding of the Commission but only that finding which involved the repatriation of any such Arabs. The new provision to call on the Governments to take no future action involving the transfer of persons without prior consultation through the Commission was criticized on the ground that it would encourage infiltrators to enter Israel territory in the sure knowledge that the Government did not possess an unreserved power to exclude them. The Israeli Government,

he said, must be allowed the right to exclude those who sought to enter wrongfully or those who had succeeded in entering wrongfully.

The representative of the United States explained on behalf of the sponsors that the draft resolution in no sense prejudged the matter of expulsions. As for the last point raised by the representative of Israel, he stated that some orderly and managed regulation of the transfers seemed to the sponsors to be clearly appropriate. In the context of the international relationships concerned, it was desirable that the Mixed Armistice Commission should decide questions relating to the form, the timing and the procedures of consultation.

The revised draft resolution (S/1899) was then put to the vote and adopted at the 524th meeting on 17 November by 9 votes to none, with 2 abstentions (Egypt, USSR). The text of the resolution (S/1907) follows:

The Security Council,

Recalling its resolution of 11 August 1949 wherein it noted with satisfaction the several armistice agreements concluded by means of negotiations between the parties involved in the conflict in Palestine; expressed the hope that the governments and authorities concerned would at an early date achieve agreement on final settlement of all questions outstanding between them; noted that the various armistice agreements provided that the execution of the agreements would be supervised by Mixed Armistice Commissions whose chairman in each case would be the United Nations Chief of Staff of the Truce Supervision Organization or his designated representative; and, bearing in mind that the several armistice agreements include firm pledges against any further act of hostility between the parties and also provide for their supervision by the parties themselves, relied upon the parties to ensure the continued application and observance of these agreements,

Taking into consideration the views expressed and the data given by the representatives of Egypt, Israel and the Hashemite Kingdom of Jordan and the Chief of Staff of the Truce Supervision Organization on the complaints submitted to the Council: (S/1790, S/1794, S/1824),

Notes that with regard to the implementation of Article 8 of the Israeli-Jordan Armistice Agreement the Special Committee has been formed and has convened and hopes that it will proceed expeditiously to carry out the functions contemplated in paragraphs 2 and 3 of that Article,

Calls upon the parties to the present complaints to consent to the handling of complaints according to the procedures established in the Armistice Agreements for the handling of complaints and the settlement of points at issue,

Requests the Israeli-Egyptian Mixed Armistice Commission to give urgent attention to the Egyptian complaint of expulsion of thousands of Palestine Arabs, and

Calls upon both parties to give effect to any finding of the Israeli-Egyptian Mixed Armistice Commission regarding the repatriation of any such Arabs who in the Commission's opinion are entitled to return,

Authorizes the Chief of Staff of the Truce Supervision Organization with regard to the movement of nomadic Arabs to recommend to Israel, Egypt and to such other Arab States as may be appropriate such steps as he may consider necessary to control the movement of such nomadic Arabs across international frontiers or armistice lines by mutual agreement, and

Calls upon the Governments concerned to take in the future no action involving the transfer of persons across international frontiers or armistice lines without prior consultation through the Mixed Armistice Commissions,

Takes note of the statement of the Government of Israel that Israeli armed forces will evacuate Bir Qattar pursuant to the 20 March 1950 decision of the Special Committee, provided for in Article 10, paragraph 4, of the Egyptian-Israeli General Armistice Agreement, and that the Israeli armed forces will withdraw to positions authorized by the Armistice Agreement,

Reminds Egypt and Israel as Member Nations of the United Nations of their obligations under the Charter to settle their outstanding differences, and further reminds Egypt, Israel and the Hashemite Kingdom of Jordan that the armistice agreements to which they are parties contemplate "the return of permanent peace in Palestine", and, therefore, urges them and the other States in the area to take all such steps as will lead to the settlement of the issues between them,

Requests the Chief of Staff of the Truce Supervision Organization to report to the Security Council at the end of 90 days, or before, if he deems necessary, on the compliance given to this resolution and upon the status of the operations of the various Mixed Armistice Commissions and further requests that he submit periodically to the Security Council reports of all decisions made by the various Mixed Armistice Commissions and the Special Committee provided for in Article 10, paragraph 4, of the Egyptian-Israeli General Armistice Agreement.

2. Report on the Mixed Armistice Commissions

The Chief of Staff of the Truce Supervision Organization in Palestine, in conformity with the Council resolution of 11 August 1949, submitted on 12 February 1950 a summary report on the Mixed Armistice Commissions (S/1459). The report dealt with the work of the Mixed Armistice Commissions in connexion with the implementation of the General Armistice Agreements concluded between Israel and its four Arab neighbour States, Egypt, Jordan, Syria and Lebanon. It stated that the Commissions, "the only forum on which Arabs and Israelis are presently cooperating in direct contact under United Nations auspices", had been able to settle and to alleviate innumerable human problems arising between the parties on a local level and had contributed to the growing human understanding between the

two peoples. On 17 March 1950 the Chief of Staff communicated the text of a modus vivendi to the Egyptian-Israeli General Armistice Agreement signed at El Auja on 22 February 1950 (S/1471).

3. United Nations Conciliation Commission

a. REPORT OF THE COMMISSION

On 2 September the United Nations Conciliation Commission for Palestine presented to the Secretary-General for transmission to the Security Council and the Members of the United Nations a General Progress Report (A/1367 & Corr.1)[89] describing its activities since it assumed its functions in January 1949 after its establishment by the General Assembly in December 1948. On 23 October it submitted to the Secretary-General a supplementary report (A/1367/Add.1). These two reports were communicated by the Secretary-General to the General Assembly and to the Security Council (S/1814 & Add.1).

Following is a summary of the Commission's activities during 1950.[90]

In February the Commission proposed the formation under its auspices of a Mixed Committee of Israeli and Egyptian Members to consider an Egyptian request to permit refugees in the Gaza area to cultivate their lands north and east of the Gaza strip and to permit refugees from Beersheba to return provisionally to that area. Replies from Israel regarding this proposal indicated that while the Israeli Government was prepared to discuss a final peace settlement, it felt that questions of a local and specific nature could best be discussed under the auspices of the Mixed Armistice Commission.

On 29 March the Commission proposed the establishment of Mixed Committees under the Chairmanship of a representative of the Commission and composed of Arab and Israeli members, which would enable the representatives of the parties to discuss directly proposals that the Commission might make. The Commission also stated that it would reserve the right to determine what questions would form the subject of its proposals.

The Arab reply to this proposal indicated that the Arab States were prepared to sit jointly with Israeli representatives if the latter were prepared to discuss the execution of the provisions of the Assembly's resolution 194(III) of 11 December 1948 in so far as it related to the refugees. As regards other questions, the Arab States were in favour of maintaining the present procedure with one difference, that the Commission should undertake mediation as well as conciliation.

The Israeli reply indicated that Israel was prepared to negotiate a peace settlement directly with Arab States with the Commission acting only as a "harmonizing agent" between the parties.

On 11 May the Commission sent another letter to the parties detailing the principles which would guide it in the conduct of negotiations in the proposed mixed committees, as follows:

(i) The objective aimed at was to achieve a final settlement of the Palestine problem as called for in Assembly resolution 194(III);
(ii) The problems raised by such settlement were interlinked
(iii) Some of them were of an urgent character and might, by agreement among the parties, be examined before, the others
(iv) The principles of the Assembly resolution of 11 December should be respected.

The replies to this letter from the parties concerned and to another note sent by the Commission to Arab States, further clarifying the proposals of 11 May, indicated that the difference in approach stated earlier had remained unresolved. The Commission therefore regretted that for the present there were no grounds on which it could pursue the efforts to set up mixed committees.

In its supplementary report (A/1367/Add.1) the Commission stated, inter alia, that various factors had thus far contributed towards preventing the conclusion of a positive peace in Palestine. The establishment of a new State in territory which the Arabs considered their own had provoked deep reactions which profoundly affected the life of Arab peoples. These anxieties, coupled with the anxiety felt about their security by both Israel and the Arab States, had been an important factor preventing the achievement of any degree of normal or stable relations between the new State and its neighbours. The Commission concluded that harmony in the Middle East could result only from a compromise by which the new State of Israel on the one hand would do its best to counteract the dislocations caused by its establishment and the Arab countries would endeavour to adapt their policies to the new situation. The Commission believed that the General Assembly should urge the parties to engage in direct nego-

[89] See also p. 328.
[90] For previous activities of the Commission see Y.U.N., 1948-49, pp. 203-7; see also reports of the Commission A/819, A/838, A/927, A/992, A/1252, A/1255, A/1288.

tiations, under the auspices of the Commission, to arrive at a peaceful settlement.

In Chapter III of its report dealing with the refugee question, the Commission stated that, in accordance with Assembly resolution 194(III)[91] of 11 December 1948, the Commission had undertaken negotiations with the interested Governments with a view to solving the refugee problem. The negotiations had concerned both the general aspects of the refugee question, including repatriation, resettlement, economic and social rehabilitation and compensation, and such specific matters as the reuniting of separate families, the protection of orange groves and the unfreezing of bank accounts belonging to refugees and blocked in Israel. The Arab delegations had consistently held the view that (a) the refugee problem should be accorded absolute priority over all other questions relating to the Palestine problem and (b) the solution of that problem depended on Israel's acceptance of the principle of the Assembly's resolution, which required the repatriation of Arab refugees and payment of compensation to those of them that did not wish to return. In their view Israel had not accepted that principle and was making its application difficult.

The Commission, while admitting the validity of the Arab contention that the refugee problem should be accorded priority and of the principle of repatriation, felt, nevertheless, that the refugees should first be informed of the conditions under which they would return. In its view, the refugee question could not be permanently solved without a solution being found for the political questions involved, notably those relating to boundaries.

During the negotiations the Commission received the impression that the Arab Governments were inclining more and more to the view that the problem could not be solved by the return of the refugees to their homes, and that consequently the resettlement of a considerable number of refugees in the Arab countries must also be contemplated.

The Israeli position, as revealed in an interview by members of the Commission with the Prime Minister of Israel, was that Assembly resolution 194(III) made the return of refugees contingent on their willingness to "live at peace with their neighbours". This readiness to live at peace, according to the view of the Israeli Government, could not be relied upon without peace being established between the Arab States and Israeli.

Though not excluding the possibility of repatriation on a limited scale, the Israeli Prime Minister envisaged the final solution of the problem as the resettlement of the majority of the Arab refugees in Arab areas. The ultimate acceptance of the principle of repatriation by Israel was not achieved, the Commission reported.

The Commission concluded that the Government of Israel, although confirming its decision in principle to pay compensation for land abandoned by Arabs who had left Israeli territory, persisted in its point of view that this question could be usefully considered only within the framework of a general peace settlement. The Commission, however, expressed confidence that further conversations would enable a formula to be found by which the Israeli Government would be able to collaborate in preliminary work leading to the implementation of paragraph 11 of Assembly resolution 194(III) relating to the payment of compensation.

In its supplementary report (A/1367/Add.1), the Commission set forth the following "broad lines" of assistance to refugees on the basis of which, it proposed, immediate negotiations should be undertaken between the appropriate United Nations bodies and the Governments concerned: return to Israel of as many refugees as would be consistent with their own best interests; immediate payment of compensation for property of non-returning refugees; adoption of measures by the Arab States for assuring the full reintegration of non-returning refugees; provision, by the Governments directly concerned, of facilities for resettlement with the technical and financial assistance of the United Nations.

b. CONSIDERATION BY THE ASSEMBLY AT ITS FIFTH SESSION

During the fifth session of the General Assembly, the report of the Commission was discussed by the Ad Hoc Political Committee, the discussion being linked with that on the question of Palestine refugees (see below).

At the 34th meeting of the Committee on 6 November 1950, the Chairman of the United Nations Conciliation Commission for Palestine made a statement in connexion with the sections of the* Commission's report (A/1367 & Corr.1 & Add.1) relating to the question of refugees. The Committee decided to discuss parts of the report dealing with refugees together with the two items on its agenda concerning refugees: (i) "Assistance to Palestine refugees" and (ii) "Repatriation of Palestine refugees and payment of compensation

[91] For text, see Y.U.N., 1948-49, pp. 174-76.

due to them". Its specific discussions on the report of the Commission, which took place at the 70th to 72nd meetings, 5-6 December 1950, following the discussions of the two items referred to above, were concerned to some extent with the question of refugees. Similarly certain other points connected with the Commission were raised in the discussions concerning the repatriation of the refugees and the payment of compensation to them.[92]

4. Palestine Refugees

Apart from discussions on the question of an international régime for the Jerusalem area and protection of the Holy Places[93] the Assembly's discussions concerning Palestine at its fifth session were concerned primarily with questions relating to the Palestine refugees. It had on its agenda the following items:

(a) Assistance to Palestine refugees
(b) Repatriation of Palestine refugees and payment of compensation to them
(c) Report of the United Nations Conciliation Commission for Palestine

The discussions on the last two items are here treated together. These questions were considered by the Ad Hoc Political Committee, which at its 31st meeting on 1 November 1950 invited the representative of Jordan to participate without vote in the discussion of questions relating to Palestine.

a. ASSISTANCE TO PALESTINE REFUGEES

The Ad Hoc Political Committee considered this question at its 31st to 36th meetings, 1-7 November, and at the 57th meeting on 27 November 1950. The discussions at these meetings, however, included reference to the question of repatriation and payment of compensation to refugees.

(1) Report of the Director of UNRWAPRNE

At the 31st meeting of the Committee the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWAPRNE) presented the interim report of the Agency (A/1451) and made a statement which was circulated (A/AC.38/4).

The report, covering the period 1 May to 15 September 1950, stated that 800,000 Arab refugees under its care were in a "desperate situation". They were living in overcrowded tents, billets and improvised quarters, the condition of which was rapidly deteriorating. Their clothing was in tatters and they had exhausted their personal resources to supplement their minimum relief diet. The refugees, it was stated, were tired of their present condition and were anxious to return to their homes. They attributed their present condition to the interference of the "Western World" in their affairs and resented the fact that they had not received compensation for their losses. They also resented the withholding by Israeli banks of their money. They blamed the United Nations for their plight and had little gratitude for the efforts of the Agency to maintain them.

After two years of enforced idleness and trying conditions, the 800,000 refugees constituted a serious threat to the peace and stability of the Near East, the report stated. The report acknowledged the assistance to the refugees of UNICEF, which had contributed $3,000,000; WHO, which had provided $42,857 for the 1950 medical programme; and UNESCO, which had donated $50,000 towards the educational programme (74 schools run jointly by the Agency and UNESCO were teaching 45,740 pupils).

The report recalled that the assignment given to the Agency by the Assembly in December 1949 in resolution 302(IV) had been to change the pattern of United Nations activities for Arab refugees from a direct relief programme to one of works employment, in order to eliminate free rations, offer the refugees a constructive outlet and strengthen the economies of the host countries. But, despite persistent application of this formula, progress had been slow. Only 17,500 refugees were working on works projects. The Agency had been unable to reach the high targets of employment previously contemplated due to the following reasons:

(a) The agency did not get started as early as had been hoped

(b) The time taken to interest refugees and Governments in a works programme had been longer then anticipated

(c) There was no opportunity for any considerable works programme which could solve the unemployment problem for refugees in Gaza and Lebanon, where their number was more than 200,000, as there were no works projects available and none likely to develop in this area. The resources of Jordan, which had received more than half the refugees, were unequal to the task of starting works projects on any considerable scale

(d) Lack of contributions made it impossible to provide for more than a very modest programme.

[92] For convenience, the Committee's discussion is dealt with under this heading; see pp. 328—34.
[93] See pp. 335-41.

The report recommended that direct relief be continued and that works programmes be stepped up and also be designed specifically for the improvement and future living conditions of the refugees.

In Israel, the Agency had provided relief to two types of refugees: Jews who had fled inside the borders of Israel, and Arabs displaced from one area to another. When the Agency first started its operations the Jewish refugees numbered 17,000, but 14,000 had been absorbed in the economic life of the new State. Arab refugees were first numbered at 31,000. A number of these had become self-supporting, and at the end of August only 24,000 were receiving relief.

The report stressed the need for giving international assistance to the Governments of the receiving countries and for the repatriation or re-establishment of the refugees, to be accomplished by negotiations with the Government concerned. In this connexion the report drew attention to the increasing importance of technical assistance by UNWRAPRNE and by the specialized agencies of the United Nations in "moving the programme from relief to works and then on to reintegration" of the refugees into the economy of the area concerned, either through repatriation or through resettlement. It therefore proposed that the United Nations authorize contributions to a fund that would be available for projects of refugee reintegration and surveys and technical assistance connected with such projects proposed by Near Eastern Governments.

The Agency considered that the reintegration of the large number of refugees would in the course of years involve a major economic enterprise. It therefore urged the United Nations to encourage and facilitate consultation among those engaged in international economic activities in the Near East, especially with reference to the task of refugee reintegration, and to facilitate the Agency's participation in feasible arrangements for economic co-operation among Near East Governments.

Estimates of $50,000,000 were submitted for the period 1 July 1951 to 30 June 1952, out of which, it was proposed, $20,000,000 should be earmarked for direct relief and $30,000,000 for the proposed re-integration fund. In conclusion, the report emphasized the magnitude of and the danger inherent in the Near East refugee problem and stated that the problem needed the fullest understanding and support of the nations of the world.

(2) Consideration by the Ad Hoc Political Committee

At the 35th meeting of the Ad Hoc Political Committee on 7 November 1950, a joint draft resolution (A/AC.38/L.28) was presented by France, Turkey, the United Kingdom and the United States. This draft resolution would have the Assembly note, inter alia, that contributions sufficient to carry out the programme authorized in Assembly resolution 302(IV) had not been made, and urge Governments which had not yet done so to make every effort to give voluntary contributions. It would recognize that direct relief could not be terminated by 31 December 1950, as envisaged in resolution 302(IV), and authorize the Agency to continue to furnish direct relief to refugees, estimating that approximately $20,000,000 would be needed for this programme for the period 1 July 1951 to 30 June 1952. It would state that the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement, was essential, and instruct the Agency to establish a reintegration fund to which not less than $30,000,000 should be contributed during the period 1 July 1951 to 30 June 1952. The Secretary-General, it was proposed, should be authorized to advance funds not exceeding $5,000,000 from the Working Capital Fund to finance operations persuant to the resolution.

The Secretary-General and the specialized agencies would be called upon to utilize to the fullest extent the Agency's facilities in co-ordinating the technical assistance programmes in the countries in which the Agency was operating. The draft resolution expressed appreciation of all the assistance rendered by the specialized agencies, non-governmental organizations and private organizations as well as of the work of the Director and the staff of the Agency and the Advisory Commission.

Paragraph 8 of the joint draft resolution dealing with the method of financing was left blank; the sponsors proposed that the Committee should seek advice from the Fifth Committee concerning it. The proposal to refer this question to the Fifth Committee was accepted.

In the Committee's general debate the representatives of Egypt, Iraq, Jordan, Lebanon, Pakistan, Syria and Yemen, while supporting the recommendation of the Director of the United Nations Relief Agency for continued direct aid to the refugees, held that such aid was merely a palliative measure and emphasized that the only permanent solution of the problem lay in the repatriation of

the refugees to their homes and in the payment of the compensation due to them according to Assembly resolution 194(III) of 11 December 1948.[94]

They alleged that Israeli authorities were confiscating Arab possessions and were practising discrimination in a determined effort to annihilate the Arab population. There was an added danger, they said, that subversive doctrines would gain ground among the refugees and increase the threats to the peace of the Near East. Moreover, it was stated, Israel was continuing to expel Arabs from its territory. The number of those who had remained in their homes but had lost their livelihood because their lands were on the other side of the frontier was also very large—nearly 150,000—which, if added to the number of refugees receiving relief, would swell the figure of those in extreme need, to nearly a million.

It was emphasized that one million refugees constituted above one seventh of the population of that area. As long as Israel refused to implement Assembly resolution 194(III) the problem would remain. If, however, the refugees were repatriated, the number wishing to remain in the Arab countries would pose no problem for the United Nations, as it would be small.

These representatives agreed with the recommendation of the Relief and Works Agency that a reintegration fund of $30,000,000 should be constituted, but emphasized that the Agency's projects should not entail loss of the refugees' right of repatriation which had been conceded to them by the General Assembly. Furthermore, the reintegration fund should also be available for the rehabilitation of the refugees in their original homes and their trades and professions.

As for suggestions that the refugees should be settled in the Arab countries and be employed in economic development projects, it was argued that there were no work projects which could possibly absorb the large number of refugees in Gaza, Lebanon or Jordan. Moreover, repatriation to their homes was a fundamental human right which could not be "bartered away".

Commenting on the joint draft resolution the representative of the United States stated that reintegration would give an ever-increasing number of refugees the courage and material means of beginning a new life. He hoped that the states of the Near East, in particular, would weigh the advantages of such a proposal. Clearly, several years would be needed to carry out the reintegration of 150,000 families, but the sooner such a scheme was initiated the sooner it would be completed. Before the necessary funds were granted to the Agency, however, the representative of the United States observed, evidence would be needed of any projects which had been or were to be initiated by the Governments concerned. The United States Government, he said, was prepared to request Congress for a contribution, but at present his delegation was not in a position to make commitments. Any action that might be taken on the question would be influenced greatly by the actions of other Governments in support of the Agency's programme, as well as by the steps taken by the Near Eastern Governments in preparing plans for the reintegration of refugees.

The representative of Canada stated that the humanitarian aspects of the question could not be considered in isolation from its political aspects. While expressing his Government's deepest sympathies for the Arab refugees, he nevertheless felt that the first measures for a solution of the problem should be to determine the exact number of refugees who were not in favour of repatriation. These refugees should then receive compensation under the reintegration programme. He stressed that the resettlement of the refugees in the Arab countries would require technical and financial assistance on a large scale. Such expenditure by the United Nations would, in his opinion, be justified not only on humanitarian grounds but because of its contribution toward the economic development of the Near East.

The representative of the United Kingdom regretted that the Agency's report had not given more prominence to possibilities of transferring the responsibility for the operation of the relief and works programme to the Governments of the Near East since that had been an important recommendation made by the Economic Survey Mission. Nevertheless he considered the reintegration programme to be essential.

The representative of Iraq stated that he had noted a tendency of certain representatives to disregard the legitimate right of the Arabs to return to their homes. Most speakers, he stated, allowed the inference that it was apparently the object of the United Nations to "chase the Arabs from their homes in Palestine". The continuation of

[94] This resolution, which established the Conciliation Commission, stated in par. 11 that refugees wishing to return to their homes should be permitted to do so as soon as possible and that compensation by the Governments or authorities responsible should be paid for the property of those choosing not to return and for damage and loss of property. The Conciliation Commission was instructed to facilitate the repatriation, resettlement, and economic and social rehabilitation of refugees and the payment of compensation to them.

relief, he stated, was not a solution. The remedy was to restore to the refugees their homes and their property. Those who had despoiled the Arabs should be compelled to comply with the Assembly decisions and restore the property they had looted. The United Nations could not acquiesce in or remain indifferent to such a violation of property rights. It was, he said, the Organization's duty to apply the principles which it was applying in Korea. He stated that the present relief measures were quite inadequate and amounted to $2 per month per head, which could not support any individual. He could not agree with the joint draft resolution, which, he stated, completely ignored resolution 194(III) under which the Assembly had solemnly recognized the refugees' right to return to their homes or, if they did not choose to do so, to receive compensation for their property.

At the 36th meeting of the Committee, the representative of Pakistan proposed an amendment (A/AC.38/L.29) to the joint draft resolution to insert in the fourth paragraph the words "without prejudice to the provisions of paragraph 11 of the General Assembly resolution 194(III) of 11 December 1948". This amendment was accepted by the sponsors of the joint draft resolution.

The representative of Israel maintained that the decision to launch a Palestine war in 1948 together with the persistent refusal of the Arab States to negotiate a peace settlement were jointly responsible for all the present tensions in the Near East. Israel, he said, was willing to enter into negotiations for a general peace settlement at any time, and in these negotiations the refugee problem would receive prior consideration. Israel was also willing to consult with the United Nations on the question of compensation. But, he said, the question of repatriation should be considered from the viewpoint of the best interests of the refugees. Israel could accept some refugees, depending on among other things their willingness to live at peace with the inhabitants of the country. His country, however, had always felt that reintegration would serve the best interests of the refugees, who would be protected by Governments and people akin to them in tradition, culture, interests and religion. He therefore supported the proposal for the reintegration fund, to which his Government would contribute, as well as for the continuance of relief assistance for the present.

As regards the Pakistani amendment to the draft resolution, the representative of Israel stated that it was contrary to the conclusions stated in the reports of the Conciliation Commission and the Relief and Works Agency. These reports without repudiating earlier Assembly decisions on repatriation, urged the Committee to consider resettlement in large numbers in Arab countries. These recommendations, he considered, represented a change in emphasis based on changes which had occurred since 1948. With the Pakistani amendment the resolution would bind the United Nations to a formula not generally accepted as satisfactory.

(3) Recommendation by the Fifth Committee

At its 57th meeting on 27 November, the Committee considered a letter (A/AC.38/L.49) from the President of the General Assembly transmitting the advice of the Fifth Committee regarding the method of financing the proposed relief and reintegration programme. The Fifth Committee recommended that a paragraph 8 be included in the joint draft resolution which would provide for the appointment by the President of the Assembly of a Negotiating Committee of seven or more members to consult with Member and non-member States as to the amounts which Governments might be willing to contribute on a voluntary basis. It was also suggested that the Assembly should request that, as soon as the Negotiating Committee had ascertained the extent to which Member States were willing to make contributions, all delegations should be notified by the Secretary-General in order that they might consult their Governments. As soon as the Negotiating Committee had completed its work, it was suggested, the Secretary-General should at the Committee's request arrange, during the current session of the General Assembly, a meeting of Member and non-member States at which Members might commit themselves to their national contributions and the contributions of non-member States might be made known. As regards paragraph 9 of the draft resolution, the Fifth Committee noted that the maximum sum likely to be available from the Working Capital Fund during July and August 1951 was estimated at $2,500,000, and the Committee therefore hoped that the demands upon the Working Capital Fund might be limited to that amount.

The sponsors of the joint draft resolution accepted for inclusion in the joint draft resolution paragraph 8 as recommended by the Fifth Committee. The Committee then adopted the joint draft resolution by 43 votes to none, with 6 abstentions (A/AC.38/L.52).

(4) Resolution Adopted by the General Assembly

The General Assembly at its 315th plenary meeting on 2 December 1950 adopted the draft resolution recommended by the Ad Hoc Political Committee (A/1566) without debate, by 46 votes to none, with 6 abstentions.

The resolution (393(V)) read as follows:

The General Assembly,

Recalling its resolution 302 (IV) of 8 December 1949,

Having examined the report of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, and the report of the Secretary-General concerning United Nations Relief for Palestine Refugees,

1. Notes that contributions sufficient to carry out the programme authorized in paragraph 6 of resolution 302 (IV) have not been made, and urges governments which have not yet done so to make every effort to make voluntary contributions in response to paragraph 13 of that resolution;

2. Recognizes that direct relief cannot be terminated as provided in paragraph 6 of resolution 302 (IV);

3. Authorizes the Agency to continue to furnish direct relief to refugees in need, and considers that, for the period 1 July 1951 to 30 June 1952, the equivalent of approximately $20,000,000 will be required for direct relief to refugees who are not yet reintegrated into the economy of the Near East;

4. Considers that, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) of 11 December 1948, the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement, is essential in preparation for the time when international assistance is no longer available, and for the realization of conditions of peace and stability in the area;

5. Instructs the Agency to establish a reintegration fund which shall be utilized for projects requested by any government in the Near East and approved by the Agency for the permanent re-establishment of refugees and their removal from relief;

6. Considers that, for the period 1 July 1951 to 30 June 1952, not less than the equivalent of $30,000,000 should be contributed to the Agency for the purposes set forth in paragraph 5 above;

7. Authorizes the Agency, as circumstances permit, to transfer funds available for the current relief and works programmes, and for the relief programme provided in paragraph 3 above, to reintegration projects provided for in paragraph 5;

8. (a) Requests the President of the General Assembly to appoint a Negotiating Committee composed of seven or more members for the purpose of consulting, as soon as possible during the current session of the General Assembly, with Member and non-member States as to the amounts which governments may be willing to contribute on a voluntary basis towards:

(i) The current programme for relief and works for the period ending 30 June 1951, bearing in mind the need for securing contributions from Member States which have not yet contributed;

(ii) The programme of relief and reintegration projects as provided for in paragraphs 3 and 4 above for the year ending 30 June 1952;

(b) Authorizes the Negotiating Committee to adopt procedures best suited to the accomplishment of its task, bearing in mind:

(i) The need for securing the maximum contribution in cash;

(ii) The desirability of ensuring that any contribution in kind is of a nature which meets the requirements of the contemplated programmes;

(iii) The importance of enabling the United Nations Relief and Works Agency for Palestine Refugees in the Near East to plan its programmes in advance and to carry them out with funds regularly contributed;

(iv) The degree of assistance which can continue to be rendered by specialized agencies, non-member States and other contributors;

(c) Requests that, as soon as the Negotiating Committee has ascertained the extent to which Member States are willing to make contributions, all delegations be notified accordingly by the Secretary-General in order that they may consult with their governments;

(d) Decides that, as soon as the Negotiating Committee has completed its work, the Secretary-General shall at the Committee's request arrange, during the current session of the General Assembly, an appropriate meeting of Member and non-member States at which Members may commit themselves to their national contributions and the contributions of non-members may be made known;

9. Authorizes the Secretary-General, in consultation with the Advisory Committee on Administrative and Budgetary Questions, to advance funds, deemed to be available for this purpose and not exceeding $5,000,000, from the Working Capital Fund to finance operations pursuant to the present resolution, such sum to be repaid not later than 31 December 1951;

10. Calls upon the Secretary-General and the specialized agencies to utilize to the fullest extent the Agency's facilities as a point of reference and co-ordination for technical assistance programmes in the countries in which the Agency is operating;

11. Expresses its appreciation to the United Nations International Children's Emergency Fund, the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the International Refugee Organization, the International Labour Organisation and the Food and Agriculture Organization for the assistance which they have rendered, and urges them to continue to furnish all possible assistance to the Agency;

12. Commends the International Committee of the Red Cross, the League of Red Cross Societies, and the American Friends Service Committee for their invaluable services and whole-hearted co-operation in the distribution of relief supplies until those functions were taken over by the Agency;

13. Expresses its thanks to the numerous religious, charitable and humanitarian organizations whose programmes have brought much needed supplementary assistance to the Palestine refugees, and urges them to continue and expand, to the extent possible, the work which they have undertaken on behalf of the refugees;

14. Extends its appreciation and thanks to the Director and staff of the Agency and the members of the Advisory Committee for their effective and devoted work.

(5) Establishment of the Negotiating Committee

At the 318th plenary meeting of the Assembly on 4 December, the President announced that he had appointed, in compliance with resolution 393(V), a Negotiating Committee consisting of Canada, Egypt, France, India, United Kingdom, the United States and Uruguay. On 14 December, the Chairman of the Negotiating Committee submitted a statement (A/1744) to the Assembly on the work and the plans of the Negotiating Committee.

The report stated that the response on the raising of funds for Palestine Relief and Public Works had been a "keen disappointment" to the Committee. It noted that many delegations were still without instructions from their Government. As to future plans of the Committee, it stated that it was intended to complete exploratory work by 15 January 1951 and to request the Secretary-General thereafter to arrange a meeting of Member and non-Member States at which Members might commit themselves to their national contributions and the contribution of non-Members might be made known.

b. REPATRIATION OF REFUGEES AND PAYMENT OF COMPENSATION TO THEM

This question, as well as the report of the Conciliation Commission (A/1367 & Corr.1 & Add. 1),[95] was discussed by the Ad Hoc Political Committee at its 61st to 72nd meetings, 29 November to 6 December 1950; the Committee also discussed those aspects of the report of the Palestine Conciliation Commission (A/1367 & Corr.1 & Add.1) bearing on the question, and other aspects of the report.

(1) Consideration by the Ad Hoc Political Committee

(a) DRAFT RESOLUTIONS BEFORE THE COMMITTEE

The Committee had before it the following draft resolutions:

(a) Draft resolution by Egypt (A/AC.38/L.30/Rev. 1), which would have the General Assembly request the Conciliation Commission to establish an agency for the repatriation of and payment of compensation to Palestine refugees. The agency was to make arrangements for the repatriation of refugees and remit to those entitled, sums due as compensation. It would, also, in collaboration with the competent authorities, take measures to safeguard the property of the refugees. The competent Governments and authorities would be invited to furnish binding guarantees that refugees returning to their homes would be treated without any discrimination in law or in fact. The Director of the agency was to be appointed by the General Assembly before the end of the fifth session, and the Secretary-General was to be authorized to make available to him funds and staff essential for the discharge of his responsibilities. A refusal by any Government or authority to comply with the terms of the resolution was to be taken as proof of the existence of a breach of the peace within the meaning of Article 39 of the Charter and was to be subject to investigation by the competent organs of the United Nations with a view to adoption of appropriate measures in conformity with the Charter.

(b) Draft resolution by France, Turkey, the United Kingdom and the United States (A/AC.38/L.57), which, inter alia, urged the Governments concerned to engage without delay in direct discussions in order to arrive at a peaceful settlement of all questions outstanding between them. It was proposed that the Conciliation Commission be directed to establish an office under its direction to make arrangements for the assessment and payment of compensation pursuant to paragraph 11 of resolution 194(III), to work out arrangements for the implementation of other objectives of that paragraph, and to continue to consult the parties regarding measures to protect the rights, property and interests of the refugees. The Governments concerned would also be called upon to ensure that refugees, whether repatriated or resettled, would be treated without any discrimination in law or in fact

(c) Draft resolution by Israel (A/AC.38/L.60), which would urge the Governments concerned to engage without delay in direct discussions under the auspices of the Conciliation Commission, in order to arrive at a peaceful settlement of all questions outstanding between them. It would direct the Commission to render all possible assistance to the parties concerned in order to ensure the implemetation of the resolution and to avail itself of the services of other United Nations organs and agencies, particularly the Relief and Works Agency for Palestine Refugees in the Near East. It would also recommend that the Governments concerned should give special and urgent attention to the refugee question, and call upon them to co-operate with the Conciliation Commission in the exercise of its functions and to assist in the attainment of a speedy and peaceful settlement of all questions outstanding between the parties;

(d) Joint draft resolution by Ethiopia and Pakistan, which, among other things, would direct the Conciliation Commission to establish an office to (i) take effective measures pursuant to paragraph 11 of resolution 194(III) to facilitate at the earliest practicable date the repatriation of all refugees wishing to return to their homes and live at peace with their neighbours; (ii) take effective measures for the assessment and payment of compensation in respect of properties of those refugees not wishing to return, as well as for the implementation of other objectives of paragraph 11; and (iii) take measures for the preservation of the properties, rights and interests of refugees pending the attainment of the foregoing objectives. The draft resolution would further call upon the Governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, would be treated without any discrimination in law or in fact. The resolution would further urge the Governments concerned to collaborate with the proposed office in the implementation of paragraph 11 of resolution 194(III) and of the new resolution, and instruct the Conciliation Commission to report periodically to the Secretary-General on the progress of the work of the office and of the implementation of the resolution.

[95] See also pp. 321-23.

(e) Draft resolution by the USSR (A/AC.38/L.66), which would state that the Conciliation Commission had proved incapable of discharging its duty of settling the disputes between the parties in Palestine and would resolve to terminate the Commission.

The following amendments were submitted to the draft resolution:

(a) By the USSR (A/AC.38/L.61), to delete the reference in the joint four-Power draft resolution to the Conciliation Commission and to delete paragraph 2 of this draft providing for the establishment of an office under its direction;

(b) By China (A/AC.38/L.64)), to replace paragraph 1 of the four-Power draft resolution by a provision urging the Governments and authorities to seek agreement "by negotiations conducted either with the Conciliation Commission or directly";

(c) By the Philippines (A/AC.38/L.67), to amend the preamble and paragraph 1 of the four-Power draft resolution by including more specific references to the refugee question. This amendment was later withdrawn.

(b) TESTIMONY OF THE CHAIRMAN OF THE CONCILIATION COMMISSION

At the 72nd meeting of the Committee, the Acting Chairman of the Conciliation Committee answered questions put to him by the representatives of Iraq, Egypt and Israel, during the course of which he stated:

(i) That the Lausanne Protocol of 12 May 1949[96] (A/927) had not been implemented and that he doubted whether it could serve as a basis for negotiations at the present time. During the past year the Commission had declined to discuss the refugee problem out of its context because it had felt that it was not competent to do so. If the General Assembly gave the Commission authority, it might be able to give primary attention to the refugee problem while bearing in mind the possibilities of a general statement;

(ii) that Israel, while agreeing to discuss all outstanding questions in mixed committees set up for the discussion of specific questions, had maintained that the refugee question could be discussed only as a part of a general settlement;

(iii) that, with reference to blocked accounts of refugees in Israeli banks, the Israel Government had agreed to release a token payment of £100;

(iv) that there had been no satisfactory progress in reuniting families; it had been found that family groups were being further separated instead of being reunited;

(v) that the Government of Israel had not been prepared to accept the return of the refugees to cultivate their orange groves.

(c) DISCUSSIONS IN THE COMMITTEE

The discussions in the Ad Hoc Political Committee centred mainly on the joint four-Power draft resolution. On behalf of the joint four-Power draft resolution, its sponsors stated as follows:

(i) The joint draft resolution considered the refugee problem in the general context of the Palestine question; the General Assembly's resolution of 11 December, it was stated, must to some extent, at least, be read as a whole and exclusive reference must not be made to its provisions concerning refugees, as was done in the Egyptian draft resolution, and provision was therefore made for direct negotiations between the parties.

(ii) The draft resolution, however, recognized the importance of the refugee problem and referred to it specifically.

(iii) It was not necessary, as proposed by Egypt, to set up a special body to deal with the repatriation of Palestine refugees and the payment of compensation to them. The Relief and Works Agency, if properly financed, could deal with the question of reintegration, which covered both repatriation and resettlement, and the committee of experts being established by the Palestine Conciliation Commission should be able to set up the machinery for the payment of compensation.

(iv) Although containing no magic formula, the draft resolution, if implemented, would contribute to better relations between Israel and the Arab States; it would improve the general situation in Palestine and thus lay the foundations for a final settlement in the interest of the refugees.

(v) The draft resolution did not seek to alter the principles contained in the General Asembly resolution 194(III) or to contradict the right of the refugees to return to their homes in Palestine, or failing this, to receive compensation. It did however, recognize that the principles contained in the Assembly's resolution must be applied on a practicable basis.

In this connexion, the representative of the United Kingdom stated that he doubted whether it would be in the best interest of the refugees to return to Palestine since there was a grave danger that the legacy of distrust between the two parties would make the task of mutual adjustment of populations impossible. The Arabs of Palestine might also have great difficulty in adjusting themselves to the very highly organized economy of Israel, which ran counter to the Arab economic outlook. In these circumstances, he considered that the Arab refugees would have a happier and more stable future if the bulk of them were resettled in the Arab countries.

The representatives of Afghanistan, Egypt, Iran, Iraq, Jordan, Lebanon, Pakistan, Saudi Arabia and Yemen maintained that the General Assembly had already decided, by adopting resolution 194 (III)

[96] This Protocol declared: "The United Nations Conciliation Commission for Palestine, anxious to achieve as quickly as possible the objectives of the General Assembly resolution of 11 December 1948, regarding refugees, the respect for their rights and the preservation of their property, as well as territorial and other questions, has proposed to the delegations of the Arab States and to the delegation of Israel that the working document attached hereto be taken as a basis for discussions with the Commission.

"The interested delegations have accepted this proposal with the understanding that the exchanges of views which will be carried on by the Commission with the two parties will bear upon the territorial adjustments necessary to the above-indicated objectives."

To this document was annexed a map on which were indicated the boundaries defined in the General Assembly resolution of 29 Nov. 1947. This map was taken as the basis of discussions with the Commission.

of 11 December 1948, how the refugee problem was to be solved. The main conditions of that settlement were laid down in paragraph 11 of that resolution as the right of repatriation and compensation. The late Count Bernadotte, when Mediator in Palestine, had also confirmed the absolute right of the refugees to repatriation. Moreover, the right of repatriation and compensation was based on acknowledged principles of international law.

The Assembly resolution 181(II), which brought the State of Israel into being, also declared that the Arab population residing in the State would be entitled to choose Israeli nationality. Furthermore, the Arab's right to repatriation was also clear from Articles 13 and 17 of the Universal Declaration of Human Rights.

The claims by the Israeli Government that Arabs had fled from Israel on account of the Arab invasion of Palestine was false because over 250,000 Arabs had fled from their homes long before Arab forces had entered Palestine. Their flight, it was stated, had been due to the terroristic activities of Jewish organizations like the Irgun and the Stern Gang and not to the entry of the Arab forces, who had gone into Palestine to rescue their Arab kinsmen from Jewish atrocities.

The second claim of Israel was that the repatriation of refugees should be carried out as part of an over-all peace settlement. From this it appeared that Israel was using the refugees merely as a bargaining counter. Paragraph 5 and 6 of Assembly resolution 194(III) of 11 December, which dealt with the settlement of the Palestine question as a whole and the establishment of peace, had no direct connexion with paragraph 11, which was concerned with the right of refugees to return home. If this interpretation was challenged, then the question of Jerusalem and Holy Places, which was dealt with in paragraphs 7, 8, 9 and 10 of that resolution, should also be considered as part of a general settlement. Yet Israel had made no objection to that question being considered separately and had not claimed that the application of those paragraphs depended upon the establishment of peace. Moreover, when a question was covered by both general and specific provisions, the specific provisions always prevailed. Therefore, these representatives maintained, there was no justification for claiming that the return of the Arab refugees to their homes was contingent upon the establishment of peace between Israel and the Arab States.

The third objection put forward by Israel was, it was stated, that repatriation of a large number of Arab refugees would create a dangerous minority problem. But the Arabs, it was contended, had lived in Palestine for thirteen centuries and could not be regarded as a minority. Moreover, there were examples of people of different backgrounds, languages and religions living together in harmony as in the United States. As a matter of fact there was much more in common between the Palestinian Arabs and Jews than between Palestinian Jews and foreign Jews, who had nothing in common but their religion.

The representative of Egypt expressed satisfaction that the joint four-Power draft resolution covered in principle some of the points embodied in the Egyptian draft resolution. It provided, though in somewhat vague and ambiguous terms, for the repatriation of refugees and the payment of compensation to them. Nevertheless it contained two defects: the weakness of its wording and the implication that the repatriation of refugees would result in the complete settlement of the Palestine problem. As had been pointed out, there was, he said, no connexion between the two questions.

The representative of Israel in reply to the statements of these delegations stated that the version about the flight of the refugees from Palestine as having been solely due to the terroristic activities of Jewish organizations was absolutely distorted and "completely reversed to the logical order of cause and effect". Arab violence had broken out the day after the Assembly had adopted its resolution 181(II) of 29 November 1947. It had been carefully planned in advance, as evidenced by the resolution adopted by the Political Committee of the Arab League in September 1947.

The mass flight of the Arabs had been ordered by Arab interests, who had told their kinsmen that they would be free to return when the country was cleared of Jews. The refugee problem was the result of armed rebellion against a United Nations decision and those responsible for it must bear the consequences.

Moreover, he stated, Palestine was not the only country in which such vast changes had occurred. After the First World War there had been a mass migration of people between various countries, such as Greece and Bulgaria, and Greece and Turkey. After the Second World War similar transfer of populations had occurred from countries such as Poland and Czechoslovakia into Germany. When India and Pakistan had become independent, millions of men had moved from one country to the other. Migration had also taken place in China, where it had assumed still greater dimensions.

In none of those cases, in comparison with which the number of Palestine refugees became

insignificant, had there ever been any attempt to restore the status quo ante.

When the Arabs had rejected the international decision taken in November 1947 in resolution 181(II) and had chosen arms as the means of settling the problem of Palestine, they implicitly and in advance undertook to abide by the outcome of the combat, thereby relinquishing their right to invoke the principle of international settlement.

The Committee had heard the Arab delegations say that they were prepared to apply the United Nations resolution. That statement, he said, had come three years too late. During those three years events of fundamental importance had happened to render certain provisions of the 1947 plan completely obsolete in respect both of territorial limits and of population.

As regards the proper solution for the refugee problem, the representative of Israel stated, any impartial observer would have already become convinced that the repatriation of a large number of refugees was impossible, for the population of Israel was constantly increasing because of the vast influx of the Jewish immigrants. It was futile, he said, to argue at the present stage the rights and wrongs of such immigration. The establishment of the State of Israel had only one purpose: to give a home to those Jews throughout the world who were in need of it. Jewish immigration was the movement of the people urged by misery and fear towards a country where they hoped to find freedom and the possibility of a normal life. Moreover, at the present time Jews were immigrating to Israel from the Arab countries. Thus the Arab countries were on the one hand protesting against the immigration of the Jews into Israel, while on the other they seemed very anxious to get rid of their own Jewish nationals as rapidly as possible.

The other factor which must be allowed for in considering the possibility of repatriation was security. The return of the Arabs to Israel would undoubtedly create an atmosphere of mutual suspicion which would conduce neither to the stability of the area nor to the contentment of its inhabitants. The assurances given in the past on the assumption of peaceful co-operation between the two States in Palestine no longer had any meaning in the present setting. It must not be forgotten that Israel had had to wage war to defend its very existence. In a number of articles in the Arab press the repatriation of the refugees was being urged as a means of creating within Israel a fifth column which would facilitate a future war of reconquest. The Governments which refused to make peace with Israel and even refused to recognize it as a sovereign State were urging repatriation in a spirit which would, of itself, justify Israel in rejecting that solution. For all those reasons, he said, repatriation was impracticable, and politically it would be an act of criminal folly.

The Israeli delegation was of the opinion that the only solution of the refugee problem was that which the Committee had adopted (A/AC.38/-L.52)[97] approving the establishment of a reintegration fund to assist the Governments of the Middle East in carrying out programmes for the permanent resettlement of the refugees. In a spirit of conciliation the Israel Government had in that respect agreed to waive its previous requirement that the refugee problem could only be considered as part of a general peace settlement. The Israeli delegation had indicated that its Government was prepared to make contributions to the reintegration fund in the form of instalments on account of the compensation which it had always admitted that it owed for the land and property abandoned by the Arab refugees.

The representative of Israel opposed some of the provisions of the joint four-Power draft resolution (A/AC.38/L.57). He considered the refugee problem had already been dealt with by the resolution establishing the reintegration fund, and the only outstanding problem was that of peace, with which the Conciliation Commission was dealing. He supported the Commission's recommendation (A/1367/Add.1) that the General Assembly should address an urgent appeal to the parties concerned to negotiate immediately a settlement of all the questions outstanding between them. He objected, however, to the implication in the preamble that both parties were equally to blame for the lack of a peaceful settlement. The General Assembly and the Security Council had unequivocally indicated who was responsible for that situation. He raised the question as to whether the omission in the second operative paragraph of a reference to the reintegration fund meant that two methods of compensation were envisaged. The Government of Israel could not consider paying the same compensation twice or undertaking uncoordinated financial commitments. It should therefore be made clear that, apart from the payment of compensation into the resettlement fund, all other questions without exception would be considered within negotiations for a final settlement, during which Israel would present its claims for war damages. Moreover, the office it was proposed to set up could do no more than approach Gov-

[97] See p. 326.

ernments with a view to arrangements for the assessment and payment of compensation. The Israeli delegation, the representative of Israel stated, reserved the right to submit amendments on all the points he had indicated.

The representatives of India, Burma and Ethiopia considered that the rehabilitation of the Arab refugees should be treated separately from questions of a general political settlement. The representative of India stated that the question of rehabilitation was only a long-term aspect of the question of assistance. The representative of Burma stated that the enjoyment of fundamental rights should not be made contingent on the solution of political problems and that repatriation should be treated as a separate and urgent item. The representatives of Ethiopia and Pakistan offered a compromise draft resolution.

The representative of Denmark, agreeing that the United Nations bore the main responsibility for the situation in which the refugees found themselves, considered that the question should be considered in accordance with the principles of international law and of human rights. It was for the individual refugees to decide whether they wished to remain in Arab countries or not. A first step in solving the problem, he suggested, might be to unfreeze the bank accounts of refugees immediately to enable them, if they so desired, to settle in the Arab countries. He supported the joint four-Power draft resolution.

The representative of Belgium considered that irrespective of legal considerations, the question could not be solved without co-operation between Israel and the Arab States, and therefore he favoured direct negotiations between the parties. He suggested that the authors of the various proposals might find an agreed formula.

The Committee discussed at some length as to whether paragraph 1 of the draft resolution providing for direct negotiations was extraneous to the subject under discussion.

The representatives of Egypt, Ethiopia, Iraq, Lebanon, Pakistan, Saudi Arabia and Syria, among others, held that the paragraph related not to the refugee question but to the agenda item dealing with the report of the Conciliation Commission and the general political question which the Committee had agreed to discuss separately.

The sponsors of the joint draft resolution, supported by representatives of Israel and Uruguay, felt that the settlement of the refugee question was closely connected with the general political settlement and therefore could not be considered in isolation.

One of the principal questions raised in the Committee's discussion of the Conciliation Commission's report was that of Jewish immigration into Palestine. In the opinion of the Arab States, as expressed by the representatives of Egypt, Jordan and Syria, this, together with the refugee question, was the main obstacle to the settlement of outstanding issues between Israel and the Arab States, and one of the reasons why, in their opinion, the Conciliation Commission had in its two years of existence made little progress despite the greatest possible co-operation from the Arab States.

They felt that pressure from mass migration would, in the future, serve to "unleash an offensive of penetration or infiltration of Arab countries" and was a grave threat to the peace of the Middle East. In this connexion the representative of Egypt quoted a letter by the United Nations Mediator addressed to Jewish authorities on 6 July 1948, in which he had stated that unlimited immigration might cause a serious political and economic problem which the Israeli Government would be unable to control and that the question of immigration was of concern to the neighbouring Arab States as well as to the State of Israel. The Arab delegations, it was stated, considered it necessary to draw the attention of the United Nations to this continued mass migration which in their opinion was bound to have two results: to make the repatriation of Arab refugees more difficult and to compel Jews to seek expansion outside their present territory.

These delegations regretted that the Conciliation Commission seemed to some extent to concur in the Zionist views by advising the Arab States in its supplementary report (A/1367/-Add.1), to consider the existence of Israel as a fait accompli. Such conclusions, they held, tended to establish a dangerous policy of recognizing faits accomplis to the detriment of moral principles and of the United Nations prestige. They considered that it would be absurd to adopt guarantees concerning frontiers or armistice boundaries and to leave immigration and the return of refugees to the discretion of the Zionists. Peace would continue to be threatened, they stated, unless the policy of immigration which entailed expulsion of Arabs and their replacement by Jews was abandoned.

The representative of Jordan, who had been invited by the Committee to participate without vote in its discussions, stated that the Prime Minister of his country had informed the Commission that a final settlement was closely related to the

co-ordination of the joint policy of the Arab States and was dependent on Israel's respect for the Lausanne Protocol[98] and its willingness to negotiate a territorial settlement on the basis of that document. His Government also felt that a final settlement could not be reached without a settlement of the refugee problem on the basis of the Assembly resolution of 11 December 1948.

The representative of Israel stated that the United Nations had no competence to consider the question of Jewish immigration as it involved the internal policies of the State of Israel. However, he stated, if the States neighbours of Israel viewed that immigration with anxiety because of its potential threat to their territorial integrity, there was all the more reason why they should negotiate a final settlement under the auspices of the United Nations.

The crux of the problem, the representative of Israel stated, was whether the Arabs wanted peace with Israel or not; if they did, they must accept the State of Israel as it was. If the Arabs were not ready to accept that fact it would be useless for the Committee to prolong the debate.

Introducing the USSR resolution, the representative of the Soviet Union stated that all the resolutions before the Committee had one feature in common; they all attributed a preponderant role to the Conciliation Commission. He did not think that the Commission had performed its duty. It had actually contributed to a worsening of the relations between the parties in Palestine. In 1949 the Commission, under the pretext of assisting the refugees and without awaiting replies from the Arab States and Israel, had established the Economic Survey Mission, although nothing in the Commission's terms of reference had authorized it to do so. This Mission had been used to gather political and strategic information for the United States. Very significantly, he added, the Mission's Chairman had been appointed by the United States and not by the United Nations. In 1949, the Commission had also appointed a Technical Committee without any authority. Thus the methods that the Commission had used were not those of a conciliation commission but of an independent agency intent on imposing its will upon the parties concerned. Similar lack of authority characterized the Commission's proposal in 1950 to establish mixed committees. The recent resumption of military activities in Palestine confirmed the failure of the Commission. He therefore, in his draft resolution (A/AC.38/L.66), proposed its dissolution.

For the same reasons he proposed the deletion of all references to the Commission in the draft resolutions before the Committee.

The representative of Czechoslovakia stated that the General Report of the Commission and its supplementary report together with the discussions in the Committee had revealed that the approach to the problem had been wrong. The Commission had failed to do its duty. The Lausanne Protocol had not been implemented and the refugee and other allied problems had not been solved. During the two years of its existence the Commission had cost $1,800,000, which could have been put to better use. He therefore supported the USSR draft resolution urging the dissolution of the Commission. The representative of Poland expressed a similar point of view.

The representatives of Bolivia, Chile, France, Turkey, the United Kingdom and the United States expressed opposition to the USSR draft resolution because (a) they felt that it was unfair to the Commission; (b) that the United Nations could not discharge its functions in Palestine except through an organ such as the Commission and (c) the Commission's recommendations were really concrete proposals which would help in the settlement of the question.

There was considerable discussion in the Committee concerning the Chinese amendment, which proposed that negotiations between the parties could be conducted either through the Commission or directly. Some representatives held that it weakened the joint draft resolution, in that its recommendations were less definite and immediate, others that it presented a more realistic view of the situation. The sponsors of the joint four-Power draft resolution, stating that the amendment proposed the continuation of a policy which had yielded no results in the past two years, said that they could not accept it; and they also considered that the Egyptian and Israeli draft resolutions, as well as the draft resolution of Ethiopia and Pakistan, represented extreme points of view which ran counter to the spirit of the four-Power draft resolution.

The representative of Israel held that, in order to be effective, any resolution to be adopted by the General Assembly must be plain and impose clearly defined obligations and that there should be direct negotiations between the parties. In this connexion, he spoke in favour of the relevant provision of the joint four-Power draft resolution as against the Chinese amendment, which, he stated,

[98] See p. 329.

failed to call on the two parties to enter into negotiations without delay and, if adopted, would only prolong the existing situation.

The representatives of Egypt and Syria, however, considered that the Chinese amendment marked a distinct improvement in the four-Power draft resolution. The representative of Egypt requested that the four-Power draft resolution and the Chinese amendment to it be voted on first. The Chinese amendment was supported also by the representatives of Bolivia, Chile and India, while the representative of Iraq declared that the four-Power draft resolution would be useless and unrealistic unless the Chinese amendment were adopted.

In reply to a question by the representative of Israel as to how far the Commission's experience would lend support to the Chinese amendment, the Acting Chairman of the Commission stated that negotiations between the parties could not take place until the atmosphere had improved. He thought that the Commission might be able to assist the parties in initiating direct negotiations by drawing up an agenda in consultation with them to serve as a basis for such direct negotiations.

At the 72nd meeting of the Committee the draft resolutions proposed by Egypt, Israel, and Ethiopia and Pakistan were withdrawn. The Chinese amendment to the four-Power draft resolution was adopted by 33 votes to 13, with 9 abstentions. The USSR amendment to the four-Power joint draft resolution was rejected by 45 votes to 5, with one abstention. The four-Power draft resolution as amended was adopted by 45 votes to 5, with 5 abstentions.

The Committee at the same meeting rejected the USSR draft resolution by 46 votes to 5, with one abstention.

(2) Resolution Adopted by the General Assembly

The report of the Ad Hoc Political Committee (A/1646), containing the joint draft resolution adopted by the Committee on repatriation of refugees and on the report of the Conciliation Commission, was considered by the General Assembly at its 325th plenary meeting on 14 December, when the USSR reintroduced its draft resolution (A/1659), which the Ad Hoc Political Committee had rejected. The USSR also introduced two amendments (A/1680), the first of which called for the substitution in paragraph 1 of the operative part of the draft resolution recommended by the Ad Hoc Political Committee, of the words "by direct negotiations" for the words "by negotiations conducted either with the Conciliation Commission or directly", and the second proposed the deletion of paragraph 2 of the resolution.

At the request of the representative of the Soviet Union the USSR draft resolution was put to the vote first. It was rejected by 48 votes to 5, with 1 abstention.

The first USSR amendment was rejected by 46 votes to 6, with 2 abstentions.

The first part of the draft resolution recommended by the Ad Hoc Political Committee was adopted by 48 votes to 5, with three abstentions; and paragraph 2 was adopted by 48 votes to none, with 3 abstentions. The President declared that it was no longer necessary to put the second Soviet amendment to the vote. The draft resolution was then adopted, as a whole, by 48 votes to 5, with 4 abstentions.

The text of the resolution, 394(V), adopted by the General Assembly follows:

The General Assembly,

Recalling its resolution 194(III) of 11 December 1948,

Having examined with appreciation the general progress report dated 2 September 1950, and the supplementary report dated 23 October 1950, of the United Nations Conciliation Commission for Palestine,

Noting with concern:

(a) That agreement has not been reached between the parties on the final settlement of the questions outstanding between them,

(b) That the repatriation, resettlement, economic and social rehabilitation of the refugees and the payment of compensation have not been effected,

Recognizing that, in the interests of the peace and stability of the Near East, the refugee question should be dealt with as a matter of urgency,

1. Urges the governments and authorities concerned to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;

2. Directs the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, shall:

(a) Make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);

(b) Work out such arrangements as may be practicable for the implementation of the other objectives of paragraph 11 of the said resolution;

(c) Continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees;

3. Calls upon the governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, will be treated without any discrimination either in law or in fact.

5. Question of an International Régime for Jerusalem and Protection of the Holy Places

a. ACTION BY THE TRUSTEESHIP COUNCIL

By resolution 303(IV) of 9 December 1949 the General Assembly restated its previous intention (resolution 181(II)) that Jerusalem should be placed under a permanent international régime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem. It requested the Trusteeship Council to complete the preparation of the Statute of Jerusalem (T/118/Rev.2) omitting the now inapplicable provisions and to introduce into the Statute amendments for its greater democratization. It further requested the Council to approve the Statute and to proceed immediately with its implementation.

At its second special session held from 8 to 20 December 1949 the Council entrusted to its President the task of preparing a working paper on the Statute in accordance with the Assembly resolution.

(1) Report by the President of the Trusteeship Council

On 19 January 1950, at its sixth session, the Council heard the report (T/475) of its President, which contained his suggestions concerning the interpretation to be given to the General Assembly resolution in making the necessary changes in the draft Statute. The report included communications from the permanent representative of Egypt to the United Nations and from representatives of churches and other qualified organizations.

The proposals contained in the President's report were as follows:

(1) The territory of Jerusalem would be constituted as a corpus separatum within the boundaries indicated in the Assembly's resolution of 9 November 1949, and would be placed under a permanent international régime ensuring the demilitarization and neutralization of this zone, free access to the Holy Places, full freedom of movement throughout the territory, and integrity of, and respect for, Holy Places and religious buildings and sites.

(2) The territory would be constituted as an economic free zone, i.e. goods consigned to or coming directly from Jerusalem would be exempt from duty.

(3) The territory of Jerusalem would be divided into three parts: (a) An Israeli zone, (b) a Jordan zone and (c) an "international city" under the collective sovereignty of the United Nations and administered under the supervision of the Trusteeship Council, by a Governor of the Holy Places appointed by the Council.

The Israeli zone was to consist of the new city, together with the station and railway from Jerusalem to Tel Aviv. The Jordan zone was to consist of the Arab quarters of the old city, together with the Haram-el-Sharif, Wadi-el-Joz and Bab-el-Zahira sections, the American colony and certain roads. The international city was to consist of land taken in almost equal parts from the occupation zones defined by the armistice agreement between Israel and Jordan including all the Holy Places covered by the Status Quo of 1757."

The report also defined the functions and powers of the Governor as regards the interests of the citizens of the international city, the protection of Holy Places, the administration of justice, and the direction of the external affairs of the city. It recommended that the statute should remain in force for an initial period of ten years unless the Council decided to review its provision at an earlier date.

(2) Discussions in the Council

In February the Council decided to issue a general invitation to all Governments, institutions and organizations concerned to express their views during the Council's consideration of the question. Accordingly it heard, among others, the representatives of the Greek Orthodox Patriarchate of Jerusalem and all Palestine, the American Christian Palestine Committee, the Armenian Patriarchate of Jerusalem and the Commission of the Churches on International Affairs. The Council also invited the representatives of the State of Israel and of the Hashemite Kingdom of Jordan to make statements before it. The following points of view were expressed:

The representatives of Egypt, Iraq and Syria stated that the whole objective of the General Assembly had been that there should be one place in the world where all men might lead a spiritual life, free from all forms of politics. The plan of the Council's President, by dividing Jerusalem into three zones under three different authorities, defeated this objective. It was essential that Jerusalem should be preserved intact as "one whole". This division, it was stated, was, inacceptable not only to the Arabs, it was also opposed by the vast majority of religious organizations all over the world. The proposals before the Council would serve no one but the Zionists who would, through them, obtain control of a large section of Jerusalem. It was wrong to claim, these representatives

[99] The Status Quo of 1757 was a Firman (edict) issued by the Sultan of Turkey conferring on certain religious bodies the right to manage the different Holy Places in Jerusalem.

asserted, that the three great monotheistic religions of the world were interested only in the Holy Places of Jerusalem. The whole of Jerusalem was a Holy City, and to vest sovereignty over it in any authority other than the United Nations would endanger and jeopardize the rights of believers in their "spiritual capital".

It was stated further, that the partition plan submitted to the General Assembly in 1948 by the late Mediator for Palestine, Count Folke Bernadotte, had provided that Jerusalem should be included in the Arab State of Palestine, thus recognizing that under that State freedom of worship and access to Holy Places and their protection would be guaranteed. It was further recalled that Israel and Jordan had formally accepted the internationalization of Jerusalem by the Lausanne Protocol of 12 May 1949 and they could not, therefore, be opposed to such internationalization.

The Assembly resolutions, including that of 9 December 1949, provided, it was argued, that Jerusalem should be established as a corpus separatum. The President's plan, however, contemplated not one separate and distinct corpus but three corpora, and in addition integrated Jerusalem with Tel Aviv. Therefore, the President of the Council had gone beyond the task assigned to him by the Council and, in an attempt to reconcile conflicting points of view, had presented a solution which was completely new. The Arab States would accept either a full internationalization or no internationalization at all. They therefore urged the Council to proceed immediately with the task of completing the 1948 Statute for Jerusalem.

The representative of the Patriarch of Jerusalem stated, inter alia, that the following conditions should be guaranteed: (i) the Status Quo of 1757 would be kept inviolate; (ii) the character of the monastic foundations belonging to each Church would be preserved; (iii) the Holy Places and Shrines, as well as the property attached to them, would be exempt from all taxation.

In reply to a question from the representative of Egypt, the representative of the Patriarch of Jerusalem stated that the best decision on the question taken by the General Assembly was that of 1947, which laid down that the whole of Palestine should be divided into three parts, with Jerusalem as an international city.

The representative of the American Christian Palestine Committee stated that the Assembly's decision regarding the internationalization of Jerusalem was impossible to implement, in view of the opposition of the inhabitants of that area to any such plan. A fact-finding mission appointed by his Committee had recommended that a United Nations Commission should be established which would have no territorial sovereignty but only the duty of protecting the Holy Places vis-à-vis the Governments concerned. He felt that was the only practicable solution of the problem.

The representative of the Armenian Church, while welcoming the internationalization of Jerusalem, outlined certain measures regarding the constitution of a legislature for the governance of the city and for the creation of a judicial organ charged with the special task of regulating differences between the religious groups and the civil authorities.

The representative of the Commission of Churches on International Affairs outlined the following basic conditions for an international regime for Jerusalem: (i) The preservation of human rights and fundamental freedoms particularly of religious liberty; (ii) recognition that the protection of and free access to Holy Places was an international responsibility; (iii) the return to owners of all church-owned and mission-owned property in Palestine which was occupied by either Arabs or Jews.

The representative of China stated that the Council had no right to alter or deviate from the recommendations made by the General Assembly. The proposals of the President, he maintained, were not in accord with the provisions of the Assembly's resolution of December 1949. Those proposals provided too liberal an interpretation of the Assembly's resolution. He therefore submitted a draft resolution (T/467) which called for the immediate completion of a Statute for the City of Jerusalem. The Council on 10 February adopted this resolution.

The representative of Jordan stated that his Government desired to reiterate the point of view it had previously expressed, and that it was not prepared to discuss any plan for the internationalization of Jerusalem.

The representative of Israel stated that, while opposed to the internationalization of the Jerusalem area proposed in the draft Statute, his Government remained willing to accept the principle of direct United Nations responsibility for the Holy Places, to participate in discussions on the form and content of a Statute for the Holy Places, and to accept binding declarations or agreements ensuring religious freedom and full liberty for the pursuit of religious education and the protection of religious institutions.

(3) Draft Statute for Jerusalem

On 4 April 1950, the Council, after three readings, approved a draft Statute for Jerusalem and adopted a resolution (T/564) requesting the President to transmit its text to the Governments of the two States at present occupying the area and city of Jerusalem, to request from the two Governments their full co-operation, and to report on these matters to the Trusteeship Council in the course of its seventh regular session.

The Statute for Jerusalem, as adopted by the Council, consisted of 43 articles and constituted the city of Jerusalem as a corpus separatum under the administration of the United Nations. The territory defined under the Statute included the municipality of Jerusalem as delimited on 29 November 1947, together with the surrounding villages and towns, bounded on the east by Abu Dis; on the south by Bethlehem; on the west by Bin Karim and Motsa; and on the north by Shu'fat. Precise boundaries were to be delimited by a Commission nominated by the Trusteeship Council.

The territorial integrity of the City was to be assured by the United Nations, which was also to guarantee the observance, in the city, of fundamental human rights and freedoms according to the Universal Declaration of Human Rights. The Statute further defined citizenship of the City and the powers of the Governor. It provided for a unicameral legislative council of 25 elected members and not more than fifteen non-elected members and defined the judicial system of the City. It also provided for free entry, exit and temporary residence for pilgrims and visitors and for free elementary education. It laid down that economic provisions, which were to be adopted later, would be on an equal and non-discriminatory basis for all States. It also set forth certain transitory provisions relating, among other things, to first elections, appointment of a provisional president of the Legislature, the formulation of economic and financial principles for the City Government and the flying of the United Nations flag on official buildings unless the City Legislature decided otherwise.

At the Council's seventh session, in June 1950, the President reported that he had sent invitations to the two Governments to nominate representatives to meet him in order to discuss the question. He had, up to that time, received no reply from Jordan and had therefore been able to undertake negotiations only with Israel. The Government of the latter had communicated certain new proposals which the Council did not discuss. The President concluded that the implementation of the Statute would seem to be seriously compromised under present conditions. On 14 June 1950, the Council decided to submit to the General Assembly its special report (A/1286) containing copies of the Statute as adopted by the Council, the reports of the Council President and the Israeli reply.

b. CONSIDERATION BY THE GENERAL ASSEMBLY AT ITS FIFTH SESSION

The special report of the Trusteeship Council (A/1286) containing the Statute for the City of Jerusalem adopted by the Council was considered by the Ad Hoc Political Committee at its 73rd to 81st meetings, 7-14 December 1950.

(1) Resolutions Presented to the Ad Hoc Political Committee

The following draft resolutions were submitted:

(i) By Sweden (A/AC.38/L.63): In its section A, would invite the Governments of Israel and Jordan to give pledges to: observe the principles of article 18 of the Universal Declaration of Human Rights; to give free access to Holy Places, maintaining existing privileges in that respect; to abstain from measures of taxation detrimental to the Holy Places; to respect the property rights of religious bodies; to reduce armed forces in Jerusalem; and to co-operate with a Commissioner appointed by the United Nations. Section B, 17 articles, would provide for the supervision by the United Nations of the protection of, and free access to, the Holy Places, to be exercised through a Commissioner to be appointed for three years by a Committee of the General Assembly, to which he would be responsible. The jurisdiction over and control of each part of the Jerusalem area was to be exercised by the States concerned, subject to specified powers granted to the Commissioner as regards the supervision of the protection of and free access to the Holy Places.

(ii) By Belgium (A/AC.38/L.71): Operative paragraph 1 would instruct four persons, to be appointed by the Trusteeship Council, to study, in consultation with the Governments exercising de facto control over the Holy Places and with other States, authorities and religious bodies concerned, the conditions of a settlement capable of ensuring the effective protection, under United Nations supervision, of the Holy Places and of spiritual and religious interests in the Holy Land, Paragraph 2 would invite the four persons to report to the General Assembly at its sixth session. Paragraph 3 would request the States concerned to co-operate fully in giving effect to the resolution and the fourth would invite the Secretary-General to place staff and facilities at the disposal of the persons concerned.

(2) Amendments to the Draft Resolutions

An amendment (A/AC.38/L.73/Rev.2) to the Swedish draft resolution was submitted jointly by the United Kingdom, the United States and Uruguay. The amendment proposed that the following changes be introduced in the operative part of the draft resolution: Section A after minor drafting modifications would become paragraph 1 of a new text. Section B would be replaced by three new paragraphs numbered 2, 3 and 4. Paragraph

2 would provide for a United Nations representative to represent the interests of the United Nations in the Holy City in acordance with paragraph 1, and to report to the General Assembly with such recommendations as he might consider appropriate with regard to the Jerusalem question. He was to be appointed on the nomination of the Secretary-General by a General Assembly Committee composed of the eleven States members of the Security Council. Paragraph 3 would call upon the Governments of the States in the Holy Land to co-operate fully with the United Nations representative. Paragraph 4 would request the Secretary-General to furnish the necessary staff and facilities to the United Nations representative. The amendment proposed to include in the preamble a provision that the action outlined in the operative part of the resolution was "pending further decisions by the United Nations with respect to the interests of the international community in the Jerusalem area." The representative of Sweden accepted these amendments as well as an oral suggestion by the representative of the Netherlands to the effect that the United Nations representative should report to the sixth session of the General Assembly.

Amendments to the Belgian draft resolution were submitted by China (A/AC.38/L.74) These would have substituted in paragraph 1 of the operative part for the words "instructs four persons to be appointed by the Trusteeship Council" the following: "Decides to establish a Commission of four persons to be appointed by the General Assembly," and would have made consequent changes in paragraphs 2 and 4. It was also proposed to insert after the word "report" in the second paragraph the words "with recommendations if possible." These amendments were not accepted by the representative of Belgium and were later withdrawn.

Lebanon submitted the following amendments (A/AC.38/L.76) to the Belgian draft resolution which, among other things, sought (i) to insert in the preamble references to Assembly resolutions 181(II) of 29 November 1947, 194(III) of 11 December 1948 and 303(IV) of 9 December 1949; (ii) to insert before paragraph 1 of the operative part of the resolution a new paragraph as follows: "1. Decides that new efforts should be made with a view to a satisfactory settlement of the question within the framework of principles previously adopted by the General Assembly"; (iii) to replace the words "of the Holy Places" in operative paragraph 1 by the words "over the Jerusalem area." The first of these amendments was accepted by the representative of Belgium and the remainder were withdrawn.

(3) Discussion in the Ad Hoc Political Committee

At the beginning of the debate the representative of the Dominican Republic made a statement (A/AC.38/L.69) in his capacity as President of the Trusteeship Council. He outlined the various stages in the Council's work on the question, the consideration and rejection of his predecessor's (Roger Garreau, of France) suggestions, the consultations with the various States interested in the question and the completion of the necessary revision of the draft statute drawn up in April 1948. He stressed the differences of opinion regarding the interpretation of resolution 303(IV) of the Assembly calling for the internationalization of Jerusalem as a corpus separatum, and stated that the Council had been unable to comply with the Assembly's instruction that it should proceed immediately with the implementation of the Statute.

Introducing his draft resolution, the representative of Sweden recalled that the Assembly at its fourth session had adopted resolution 303(IV) establishing the Jerusalem area as a corpus separatum and had instructed the Trusteeship Council to implement that decision. His country had voted against that resolution and had sponsored another proposal for functional rather than territorial internationalization of the Holy Places. He maintained that the Swedish point of view had been justified by subsequent events proving the insurmountable difficulties of implementing the Assembly's decision. Nothing short of force, he considered, would be sufficient to internationalize Jerusalem and even if that force was provided by the concerted action of Members it would arouse such resistance that peace in the Middle East would be seriously jeopardized.

He indicated that together with the representative of the Netherlands he had privately approached the two parties, Israel and Jordan. Both had submitted amendments and suggestions but had also given proof of a co-operative spirit. He had received the impression that there was no real obstacle to the implementation of the Swedish proposal although one of the parties appeared to make its acceptance dependent on the fulfilment of certain conditions which, in the view of the Swedish delegation, could be dealt with in the final peace settlement. He asked the Committee to give serious consideration to his proposal as it seemed to have a fair chance of implementation if it gained the support of a large majority.

The representative of Jordan stressed the historical and religious importance of Jerusalem for the entire Arab world, both Moslem and Christian. His Government, he stated, considered that any attempt to internationalize Jerusalem would be an adverse reflection on its administration of that area and on Jordan's past conduct, which had been that of fairness and tolerance for all religions. His country pledged itself to continue the same tolerant policy but it was not prepared to compromise its sovereignty in any part of the Hashemite Kingdom of Jordan. Drawing attention to a special aspect of the present plan for the internationalization of Jerusalem, he stated that under it the southern part of Palestine, now united with Jordan, would be completely separated from the northern part. Acceptance of the proposal by

Jordan would amount to a surrender of that area, since its armed forces would have no access to it except by air. Moreover, it was stated, the Arab inhabitants of Jerusalem and Bethlehem, and of the whole area, would lose their Arab nationality while their connexions with the whole Arab world—and in particular with Jordan, of which they formed an integral part—would be severed. Jerusalem had been an Arab city for fourteen centuries; it was an integral part of the Arab world.

As regards the Swedish draft resolution he stated that the obligations it sought to impose were already being scrupulously observed by his Government and so were most of the other acceptable provisions. However, the draft resolution tended in certain respects to infringe the sovereignty of Jordan and he was therefore unable to accept it as it stood.

With reference to the Belgian draft resolution, he wished to make it absolutely clear that any attempt to induce his Government to change its attitude towards the internationalization of Jerusalem was doomed to failure. His Government would continue to oppose internationalization for the reasons he had stated. He later stated that the joint amendment to the Swedish proposal represented, in his view, a new method of guaranteeing the interests of the world community in Jerusalem and was acceptable to his Government.

The representatives of Egypt, Iraq, Lebanon, Pakistan and Syria maintained that the Swedish draft resolution despite its sincerity would not solve the problems of Jerusalem. It failed, they said, to resolve the basic issue, which was how international control could harmonize the two opposing nationalisms which dominated the city. No permanent stability could be achieved until the international community assumed responsibility for control of the Jerusalem area forthwith to prevent the clash of the two authorities currently occupying it.

The Swedish draft resolution was, moreover, they held, inconsistent with the resolution adopted by the General Assembly. It also disregarded the fact that it was not merely the buildings and shrines of Jerusalem which were the concern of the international community but the land as well. Free and safe access to Jerusalem was not guaranteed by the Swedish proposal and could not be guaranteed unless an equitable solution was found for the Palestine problem as a whole. Further, it was contended the Swedish proposal would undermine the authority of the United Nations, since it would be based on expediency and not on principle. These delegations felt that if certain Powers used their friendly influence with the Governments of Israel and Jordan, the decisions already adopted by the General Assembly in previous resolutions and reaffirmed in 1949 could be applied successfully. Broadly speaking these representatives preferred the Belgian draft resolution which, they said, could serve as a basis for work since it was founded on the provisions of the resolution 303(IV) and did not disregard previous General Assembly decisions.

They held that protection of the buildings in the Holy City offered by Israel and Jordan was not enough. Spiritual freedom for religious bodies must also be maintained, and pilgrims must be allowed freedom of movement. These objectives could not be achieved if the city were divided and placed under two administrations. Administrative unity was indispensable to the peace and security of the city and to the fulfilment of its religious functions. As a symbol of religious inspiration throughout the world, the City should become a centre where cultural traditions of Christianity, Islam and Judaism could flourish in peace under the international authority of the United Nations.

It was stated that the Committee should adhere to the principles of resolution 303(IV) and invite the Trusteeship Council to proceed with the implementation of the Statute.

It was not true to say, these delegations argued, that the United Nations lacked the means of implementing its decisions. The United States, for example, had circulated a document at the second special session of the General Assembly in 1948, suggesting that Palestine be placed under United Nations Trusteeship and stating that the United States was prepared to provide forces for the implementation of that decision. Such action could be taken by the United Nations in Jerusalem.

The representative of Israel stated that the two populations of Jerusalem, however divided in other respects, were united in wishing to preserve their own ways of life and were firmly opposed to territorial internationalization such as envisaged in Assembly resolution 303(IV). The Swedish draft resolution, by emphasizing religious interests, represented a fair and practical expression of United Nations responsibility in Jerusalem. His Government was, accordingly, prepared to cooperate with a United Nations Commissioner.

Referring to the suggestion that certain Governments should use their influence with Israel and Jordan in order to make them accept internationalization, the representative of Israel said that such pressure would amount to an attempt

to disfranchise, denationalize and isolate the inhabitants of Jerusalem. The unanimous opinion of the people of Jerusalem together with the economic and administrative unworkability of the scheme made internationalization impossible. History, he stated, had shown the difficulties implicit in attempts at internationalization, as in Danzig and Memel, Jerusalem and Trieste. It might have been possible to set up a separate régime in Jerusalem in 1948 before the people of Jerusalem, the majority of whom, he claimed, were Jews, had established contact with another State. The Arabs had revolted against internationalization at that time and the opportunity had been lost.

As for the Belgian draft resolution, the representative of Israel felt that the Committee proposed in it would probably meet the same fate as the attempts at negotiation reported by the President of the Trusteeship Council. That draft resolution was merely a way of postponing a decision.

The representatives of Australia, Denmark, Guatemala, the Netherlands, New Zealand, Turkey, the Union of South Africa, the United Kingdom, the United States, Uruguay and Yugoslavia, among others, supported the Swedish draft resolution and the joint amendments thereto. These representatives expressed the view that an international régime for Jerusalem would be inacceptable to the inhabitants and would thus be undemocratic. The real objective of the United Nations in Jerusalem was to secure the safety of and freedom of access to all Holy Places, their adequate administration, and freedom of residence in the city for study or religious contemplation. The Swedish draft resolution, it was stated, would achieve all these objectives.

Israel and Jordan, although they had been adversaries in war, were now united in their resistance to the internationalization plan. Although, it was conceded, those Governments should not be allowed what amounted to a power of veto over United Nations decisions, it was clear that there was no practicable way to implement a Statute which was opposed by them. The United Nations should, therefore, refrain from taking decisions to which these Governments would be opposed. Any other action would, in the opinion of these representatives, involve the international community in responsibilities not corresponding to its interest in Jerusalem.

Expressing opposition to the Belgian draft resolution, these representatives held that it actually called for a new committee to do what had already been done by the Mediator, the Conciliation Commission and the Trusteeship Council. There was no reason to believe that the new group would succeed where others had failed. Those who supported the Belgian proposal were, it was maintained, apparently convinced that it was a continuation of resolution 303 (IV). But the Belgian proposal implied negotiations with a view to reaching agreements and hence there was a possibility of departure from the provisions of resolution 303(IV).

The Swedish draft resolution, they held, did not completely disregard the General Assembly's earlier resolutions, but provided for the application of the principles previously established as far as they were feasible. Moreover, it was a flexible proposal offering a provisional solution pending a final settlement. If the formula proved satisfactory it could be retained; if not, it would be possible to amend it in the light of experience. Furthermore, the amended Swedish draft resolution had the approval of Israel and Jordan.

The representative of Belgium stated that the Swedish proposal represented a functional solution which depended very largely on the good will of the States occupying Jerusalem and gave very limited powers to the United Nations Commissioner, who could exercise his functions only if peace prevailed in that area. In the absence of provisions for territorial status, which were contained in other proposals, and of an atmosphere of peace and understanding, it would be difficult for an official who had only moral authority and very limited resources to function efficiently in the city of Jerusalem or the Holy Places. A functional solution even more than a territorial one required a legal state of peace rather than a precarious armistice.

The Swedish proposal, he maintained, was weak in providing for a temporary solution which could be acceptable only if there were general guarantees that a limited objective could be attained. A different solution should therefore be sought. The Trusteeship Council had failed, but the failure did not apply to the principle involved but rather to the method employed. The Trusteeship Council's work had been fruitless because the efforts necessary for implementation had not been made. The Belgian delegation was therefore of the opinion that the principle of a corpus separatum should not be altered but that a new approach should be used.

Referring to the statement made by supporters of the Swedish draft resolution regarding concern for the wishes of the inhabitants of Jerusalem, the representative of Belgium pointed out that the

problem had been anticipated at the time of the decision in favour of internationalization and that the distinction in international public law between domicile and residence could be invoked in that case. Moreover the international character of the population itself was a factor in favour of internationalization.

The Belgian draft resolution was supported by the representatives of Brazil, Chile, China, El Salvador, France, Greece and the Philippines, among others. These representatives held that to give up the idea of internationalization in view of changed circumstances would be to accept a policy of fait accompli. The draft resolution submitted by Sweden was tantamount to a retreat from the principle of internationalization and constituted a series of concessions to the points of view of Israel and Jordan. Just as it had maintained its position in regard to the independence and territorial integrity of Greece and to the question of Korea, the General Assembly should now firmly adhere to its position on Jerusalem.

The representative of the Soviet Union stated that a just solution must take into account the interests of the Jewish and Arab inhabitants of the city of Jerusalem. The resolutions adopted in 1947 and in 1949 had provided for the creation of a permanent international regime. It now appeared that the solution was satisfactory neither to the Arab nor to the Jewish inhabitants of Jerusalem. His Government therefore could not continue to support those resolutions of the General Assembly. Considering that both the draft resolutions before the Committee were unsatisfactory, the USSR delegation would abstain from voting on either of them.

At its 81st meeting on 13 December 1950, the Committee, on the motion of the representative of Chile, decided by 30 votes to 18, with 10 abstentions, to vote first on the Belgian draft resolution, which was adopted by a roll-call vote of 30 to 18, with 11 abstentions.

On the motion of the representative of Lebanon, the Committee decided, by 25 votes to 18, with 12 abstentions, not to vote on the Swedish draft resolution. The text of the resolution recommended by the Ad Hoc Political Committee follows:

The General Assembly,

Considering that the world community has unique spiritual and religious interests in the Holy Land,

Recalling its resolutions 181(II) of 29 November 1947, 194(III) of 11 December 1948 and 303(IV) of 9 December 1949,

Noting the special report of the Trusteeship Council on the question of an international regime for the Jerusalem area and the protection of the Holy Places,

Considering that, for lack of the necessary co-operation by the States concerned, the Trusteeship Council has been unable to give effect to the Statute which it had prepared; that a reconsideration of the question of the international protection of the Holy Places and of spiritual and religious interests in the Holy Land is therefore essential; and that new efforts must be made to settle the question in acordance with the principles already adopted by the General Assembly,

1. Instructs four persons, to be appointed by the Trusteeship Council, to study, in consultation with the Governments at present in de facto control of the Holy Places and with the other States, authorities and religious bodies concerned, the conditions of a settlement capable of ensuring the effective protection, under the supervision of the United Nations, of the Holy Places and of spiritual and religious interests in the Holy Land;

2. Invites them to report to the General Assembly at its sixth session;

3. Requests the States concerned to co-operate fully in giving effect to the present resolution;

4. Invites the Secretary-General to place at the disposal of these persons the staff and facilities necessary for the fulfilment of their task.

The report of the Ad Hoc Political Committee (A/1724) containing the resolution recommended by it was voted upon by the General Assembly at its 326th plenary meeting on 15 December 1950, without a debate. The result of the vote was 30 in favour of the draft resolution, 18 against, and 9 abstentions. The draft resolution was not adopted, having failed to obtain the required two-thirds majority.

F. RELATIONS OF MEMBERS OF THE UNITED NATIONS AND OF SPECIALIZED AGENCIES WITH SPAIN[100]

The item "Relations of States Members and specialized agencies with Spain" was placed on the agenda of the fifth session of the General Assembly, as the result of requests, separately made, by the Dominican Republic (A/1310 and A/1314) and Peru (A/1328).

It was discussed by the Ad Hoc Political Committee, at its 25th to 30th meetings from 27 to

[100] For earlier decisions of the Security Council and the General Assembly on the question of Spain see Y.U.N., 1946-47, pp. 66-67, 126-30, 345-51; 1947-48, pp. 47-52, 496-97; 1948-49, pp. 311-15.

31 October, 1950, and by the General Assembly, at its 304th plenary meeting on 4 November 1950.

1. Consideration in the Ad Hoc Political Committee

Four draft resolutions submitted (i) by Peru and Bolivia (A/1334; (ii) El Salvador (A/1351); (iii) the Dominican Republic (A/1363) and (iv) Bolivia, Costa Rica, Dominican Republic, El Salvador, Honduras, Nicaragua and Peru (A/AC.38/L.4) were withdrawn at the 25th meeting of the Committee. At the same meeting, a joint draft resolution was introduced by Bolivia, Costa Rica, Dominican Republic, El Salvador, Honduras, Nicaragua, Philippines and Peru (A/AC.38/L.7) which referred to recommendations concerning Spain adopted by the General Assembly (39(1))[101] during the second part of its first session in 1946, stated that the establishment of diplomatic relations with a Government did not imply any judgment upon the domestic policy of that Government, and considered that the specialized agencies of the United Nations were technical and non-political in character and that they should be free to decide for themselves whether the participation of Spain in their activities was desirable. The draft resolution, therefore, proposed that the Assembly revoke its recommendation for withdrawal of Ambassadors and Ministers from Madrid contained in its resolution 39(I). It also proposed to revoke the recommendation contained in resolution 39(I), barring Spain from membership in the specialized agencies.

The sponsors of the joint draft resolution accepted a Netherlands amendment (A/AC.38/-L.26) to have the agencies decide if the participation of Spain was desirable "in the interest of their work".

Three main points of view were expressed in the Committee. The sponsors of the draft resolution supported by Belgium, Brazil, Canada, Colombia, Ecuador, Egypt, Greece, Haiti, Lebanon, Liberia, Netherlands, Pakistan, Thailand, Turkey, the Union of South Africa and the United States, held the view that Assembly resolution 39(I), which recommended the withdrawal of ambassadors and ministers from Spain, constituted intervention in the domestic affairs of a State, in violation of Article 2, paragraph 7, of the Charter. It was pointed out that it deprived Member States of their sovereign rights to maintain relations with another State.

This resolution, it was stated, had been adopted at a time when the majority of Members regarded Spain as a threat to international peace and security, but it was now generally recognized that Spain did not represent such a threat. The measures concerned should, therefore, be revoked.

Further, it was argued, the resolution had proved ineffectual and had been contravened by many States. The Assembly should therefore concede that its resolution had been adopted on false premises and had had no beneficial results.

Referring to the services rendered by Spain's neutrality to the Allied cause in the Second World War, the representatives of Liberia and Nicaragua stated that Spain, by not consenting to the occupation of Gibraltar by Axis forces in the war, had enabled the Allies to keep the Mediterranean open, to win the victory at El Alamein, to keep possession of the Suez Canal and to win the Near East campaigns. Therefore Spain's neutrality in the war had served the Allied cause better than its entry on their side would have done.

Moreover, it was maintained by several representatives that Spain was not a country with aggressive aims, that it did not constitute a danger to other States and it did not try to make other countries adopt its ideology. It had also shown effectively, in the last four years, that it had a stable Government, supported by the Spanish people. As each Member of the United Nations maintained relations with certain Governments with the domestic policy of which it disagreed, there was no reason to make an exception in the case of Spain. The present joint draft resolution, moreover, it was stated, did not imply approval of the existing régime in Spain and involved no political decision by the Assembly.

As regards Spain's participation in the work of the specialized agencies, it was held by these representatives that the agencies were not political entities, and exclusion of Spain from their membership adversely affected their technical efficiency and universal character. It also deprived the Spanish people of the benefits of the activities of the agencies.

The representatives of Guatemala, Israel, Mexico, Uruguay and Yugoslavia maintained that

[101] Resolution 39 (I) recommended that Franco Spain be barred from membership in the specialized agencies of the United Nations and that Members recall Ambassadors and Ministers from Madrid. The Security Council was further asked to consider adequate measures to be taken to remedy the situation in case a Spanish Government based on the consent of the people were not established within a reasonable period of time.

the General Assembly resolution 39(I) had been adopted because (i) the Franco Government in Spain had been established with the aid and intervention of the Axis Powers and had fought against the United Nations and had given moral and material assistance to the Axis Powers; and (ii) in origin, structure and conduct the Franco régime was a fascist dictatorship, which violated human rights and oppressed its people.

The General Assembly resolution, 39(I), it was stated, represented a moral condemnation which was still valid, as no changes had occurred in Spain to justify its revocation. The withholding of diplomatic recognition was a passive act which involved no intervention in the internal affairs of a State and therefore did not constitute a violation of Article 2, paragraph 7, of the Charter.

In reply to the argument that the specialized agencies were not of a political character, it was stated that the work of such agencies as IRO, ILO and UNESCO had certain political aspects. According to certain provisions of existing Spanish legislation, education and trade unions were controlled by the Falange. A State having such totalitarian legislation in respect of labour and education could not participate in the work of democratic organizations such as the specialized agencies. Moreover, the policy guiding the specialized agencies was laid down in the Charter and precluded any assistance to fascist régimes.

Arguing along these lines, the representative of Yugoslavia declared that he had received appeals from various anti-fascist groups and from Spanish Republican organizations, to prevent a reversal of the Assembly's 1946 decision. Spain had been the first victim of fascism in Europe, and in voting against the joint draft resolution Members would be acting in full accord with the spirit of the Charter and out of respect for the millions who had died in the fight to eradicate fascism.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR, while sharing the views regarding the origin, nature and conduct of the Franco régime expressed by other opponents of the draft resolution, stated that the earlier resolutions of the General Assembly on Spain had been based on the understanding that stronger measures would be taken by the Security Council if the situation in Spain did not improve after a reasonable period. The Committee, the representative of Poland argued, should therefore examine why the anticipated results had not been achieved, why stronger measures had not been taken and why a resolution had been presented to the Committee which would be the first step towards a total surrender by the United Nations to Franco.

It was maintained that the present draft resolution reflected a change in the policy of the United States which, they said, had instigated its introduction as the first step in getting Spain admitted to the United Nations.

Regarding Spain as an important military and strategic base, the United States, it was contended, had established close ties with it to facilitate its war plans. United States military and naval officers had held extensive military talks with Spanish officials in Madrid, and the United States had offered to negotiate a treaty of friendship, commerce and navigation with Franco. Outstanding United States Congressional leaders, such as Senator Cain, Senator McCarran and Senator Brewster, had openly declared that Spain was strategically essential to the effectiveness of the North Atlantic defence system, and that, in the event of hostilities against another Power, Spain would be the key to the control of the Mediterranean area.

Further proof of the strategic role assigned to Spain in United States war plans could, it was stated, be found in the conducted tour of military installations in the United States zone of Germany, made by the members of the Spanish General Staff and authorized by the United States High Commissioner in Germany. That strategic role had been the determining factor in the overwhelming Congressional vote for a $62,500,000 loan to Spain. Despite President Truman's avowed opposition to it, he had conceded that the Export-Import Bank was perfectly free to grant the loan if Spain fulfilled the usual requirements. With the approval of the State Department, the Chase National Bank and the National City Bank, respectively, had loaned $30,000,000 and $20,000,000 to the Spanish Government.

In reply to the argument that Spain had not directly participated in the last war and had even promoted Allied victory in Italy, it was stated that President Roosevelt, in his statement of 10 March 1945, had stressed the importance of the assistance given by Spain to the Axis Powers at a time when the success of the Allied cause seemed to be in the balance. Spanish forces had fought the forces of the Soviet Union in the last war and in the summer of 1950 Spain had seized Tangier in breach of the international status of the city. By maintaining a large army in Spanish Morocco, it had immobilized large numbers of Allied troops in North Africa. These facts had never been refuted.

It was stated that resistance to the Franco régime was being carried on by large numbers of Spanish patriots and it would be the grossest betrayal of the Spanish people if the joint draft resolution was adopted.

The representative of the United States said that he was convinced of the sincerity of some Members which had opposed the draft resolution. Most of the opposition, however, had been of a cynical nature and had consisted of false accusations against the United States. The accusation that the United States was giving military assistance to Spain had been demonstrated to be false in the Assembly debate of 1949. It continued to be false. The United States had doubted the wisdom and the efficacy of the resolution 39(I) and had therefore abstained from voting on it in the First Committee but had supported it in the General Assembly, in the interests of unanimity. In the view of the United States, diplomatic exchanges with Spain should be restored. It was a traditional practice and no political significance should be attached to it. The participation of Spain in the specialized agencies was a technical matter which should not be influenced by political considerations.

The representative of the United Kingdom stated that nothing had taken place to require or justify any change in the United Kingdom's attitude towards the Spanish régime and towards the earlier resolution of the Assembly. He would accordingly abstain from voting on the joint draft resolution.

At the 30th meeting of the Committee on 31 October, the joint draft resolution, as amended, (A/AC.38/L.7) was adopted by 37 votes to 10, with 12 abstentions.

2. Resolution Adopted by the General Assembly

The report of the Ad Hoc Political Committee (A/1473) was considered by the General Assembly at its 304th plenary meeting on 4 November 1950. The rapporteur of the Ad Hoc Political Committee drew attention to two points stressed by supporters of the draft resolution: first, that their affirmative votes did not imply approval of the domestic policies of the present Government of Spain, but meant only that the Member States and the specialized agencies should be free to decide for themselves the extent of their relations with the Spanish Government; and, secondly, that the resolution would revoke only the recommendations contained in the 1946 resolution, leaving intact the remainder of that resolution. It was decided by 33 votes to 5, with 15 abstentions, not to open a debate. While explaining their votes, the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR reiterated the points raised by them in the Committee debate. The representative of France recognized that the results of resolution 39(I) had not come up to expectations but stated that his delegation could see no valid reason for changing its basic position. He considered that the draft resolution might prove expedient even if not justified and noted that it did not involve the revocation of the preamble of the resolution adopted in 1946.

After further discussion the Assembly adopted the draft resolution in paragraph-by-paragraph votes as follows:

Preamble: adopted by 38 votes to 9, with 11 abstentions
Paragraph 1: adopted by 38 votes to 10, with 12 abstentions
Paragraph 2: adopted by 39 votes to 10, with 11 abstentions
Draft resolution as a whole: adopted by 38 votes to 10, with 12 abstentions (Australia, Burma, Cuba, Denmark, Ethiopia, France, India, Indonesia, New Zealand, Norway, Sweden, United Kingdom)

The resolution adopted by the Assembly (386(V)) read as follows:

The General Assembly,

Considering that:

The General Assembly, during the second part of its first session in 1946, adopted several recommendations concerning Spain, one of which provided that Spain be debarred from membership in international agencies established by or brought into relationship with the United Nations, and another that Member States withdraw their Ambassadors and Ministers from Madrid,

The establishment of diplomatic relations and the exchange of Ambassadors and Ministers with a government does not imply any judgment upon the domestic policy of that government,

The specialized agencies of the United Nations are technical and largely non-political in character and have been established in order to benefit the peoples of all nations, and that, therefore, they should be free to decide for themselves whether the participation of Spain in their activities is desirable in the interest of their work,

Resolves:

1. To revoke the recommendation for the withdrawal of Ambassadors and Ministers from Madrid, contained in General Assembly resolution 39(I) of 12 December 1946;

2. To revoke the recommendation intended to debar Spain from membership in international agencies established by or brought into relationship with the United Nations, which recommendation is a part of the same resolution adopted by the General Assembly in 1946 concerning relations of Members of the United Nations with Spain.

G. THE QUESTION OF THE FORMER ITALIAN COLONIES[102]

1. Libya

By resolution 289 A (IV), adopted at its fourth session, the General Assembly recommended, inter alia, that Libya should be constituted as an independent and sovereign State, not later than 1 January 1952, with a constitution to be determined by a national assembly. A United Nations Commissioner, aided and advised by a Council, was to assist the people of Libya in the formulation of the constitution and the establishment of an independent government. The Council was to consist of ten members representatives of Egypt, France, Italy, Pakistan, the United Kingdom and the United States, one representative of each of the three regions of Libya (Tripolitania, Cyrenaica and The Fezzan) and one representative of the minorities of Libya. The Administering Powers (the United Kingdom and France) in co-operation with the Commissioner, were asked to initiate immediately all necessary steps for the transfer of power to a duly constituted government, to administer the territories for the purpose of assisting in the establishment of Libyan unity and independence and to report annually to the General Assembly. The Commissioner was to submit annual and other necessary reports to the Secretary-General. The resolution finally recommended that Libya, upon its establishment as an independent State, should be admitted to the United Nations.

On 10 December 1949, the Assembly elected Adrian Pelt as the United Nations Commissioner in Libya.

a. QUESTIONS RELATING TO THE INDEPENDENCE OF LIBYA

(1) Reports Before the General Assembly

The Assembly at its fifth session had before it the following reports on Libya:

(i) First annual report of the Commissioner to the Secretary-General (A/1340) and two supplementary reports (A/1405 & A/1459/Rev.1), covering the period from January to October 1950

(ii) Report from the French Administration of The Fezzan (A/1387)

(iii) Report from the British Administration of Cyrenaica and Tripolitania (A/1390)

(a) REPORTS OF THE UNITED NATIONS COMMISSIONER

The first annual report of the Commissioner (A/1340)[103] stated that in January 1950, the Commissioner made an exploratory visit to Libya and held consultations with the heads of the political parties in Libya and with the British and French authorities. He also met with the leaders of the Jewish, Italian, Greek and Maltese minorities.

On 6 April, in unanimous agreement with the representatives of the Council, he appointed to the Council a representative of each of the three regions of Libya and one for the minorities.

The Council held its first formal meeting in Tripoli on 25 April 1950, and in May discussed a plan presented by the Commissioner for the constitutional development of Libya, which, among other things, envisaged the establishment of a preparatory committee of the National Assembly to recommend methods of representation in the National Assembly and methods of drafting a constitution.

In the discussions on the establishment of the preparatory committee (later known as the Committee of Twenty-One), the question arose as to whether each of the territories should be equally represented on it or should be represented in proportion to their populations. Some members, including the representatives of Egypt, Pakistan and Tripolitania, maintained that it would be unfair to have equal numbers of representatives from each territory in view of the difference in their populations, which were: Tripolitania, 800,000; Cyrenaica, 300,000; The Fezzan, 50,000.

Such a committee, however, the report stated, was acceptable in Cyrenaica and The Fezzan only if the three territories were represented on the basis of equality, and in the interests of Libyan unity, the most influential groups in Tripolitania had finally renounced their claim for larger representation.

The Committee of Twenty-One held its first meeting on 27 July 1950 and elected as its Chairman one of the representatives of Tripolitania and, as its Secretaries one representative from Cyrenaica and one from The Fezzan. It also adopted an agenda for the study of a plan whereby

[102] For previous consideration of this question by the Assembly see Y.U.N., 1948-49, pp. 256-79. For Italian Somaliland see pp. 797-806.

[103] For sections of the report dealing with technical and financial assistance, see below under that heading.

the representatives of the inhabitants of Cyrenaica, Tripolitania and The Fezzan should meet in a National Assembly. On 7 August, the Committee decided that the National Assembly should be composed of 60 representatives on the basis of equal representation for the three territories of Libya. On 30 August it rejected a proposal to the effect that representatives to the National Assembly be chosen by means of election.

Commenting upon the general political situation, the report stated that the people of Libya were now largely conscious of their responsibility for their own constitution and government. The concept of Libyan unity, it was stated, had grown steadily during the eight months that the Commissioner had been in Libya. While at first unity was advocated as a political programme by the more intellectual section of the population and the younger generation, support for it had now spread throughout the country. The question as to whether Libya would be a unitary or federal State, however, was still the subject of controversy and would be dealt with by the National Assembly; it was, the report said, outside the competence of the Administering Powers.

The report stressed Libya's need for a properly-organized and competent administration with a carefully planned budget supported by a viable economy. To establish this, it was stated, would take more time than the period set for the achievement of independence.

To settle the future status of the minorities in Libya it was, the report stated, a particularly delicate matter, especially in the case of the Italians (numbering 45,000 out of a total Tripolitanian population of 800,000) who had large economic and financial interests. It would be easier to solve the minorities problem, the Commissioner suggested, if it was considered apart from political issues such as minority participation in Libyan political bodies during the transitional period. The Commissioner therefore suggested that an understanding should be sought between the Libyans and the minorities only in the economic, administrative, social, financial, cultural and religious fields and that direct negotiations might be held between a delegation of the minorities and a committee appointed by the National Assembly to achieve agreement on clauses to be inserted in the constitution for safeguarding minority rights and interests.

In a chapter dealing with technical assistance, the report stated that Libya was an under-developed area with a marginal economy, basically handicapped by inadequate rainfall and poor soil. Subsoil mineral resources had not yet been found in commercially exploitable quantities. Great areas of the country were completely desert, but in the coastal regions and in the oases, irrigation, dry-farming and animal husbandry offered the possibilities of a viable agricultural economy. The indigenous population, it was stated, lacked training in the proper utilization of land and in the conservation of water. The country, it was believed, could produce the crops and flocks needed for its subsistence and for a small export trade by careful dry-farming and by greater and more efficient drawing of water for irrigation.

The report described the extent of war damage in Libya, its almost complete lack of credit and banking facilities, and the inadequate standard of teaching. In May 1950, the report noted, the Secretary-General, at the request of the Commissioner, had made funds available for the immediate recruitment of a few qualified advisers in such fields as agriculture, currency and banking, budgetary and administrative organization, and land tenure problems. He had also sent an exploratory team to make a preliminary survey and recommendations for planning studies for a comprehensive technical assistance programme. The United Kingdom and France had also requested the Secretary-General to initiate economic surveys.

The United Kingdom, the report said, had also applied for United Nations fellowships in public administration for a number of Libyans working for the two administrations. Three had been granted and others were likely to follow. UNESCO had drafted a programme of assistance for training in education and public administration. A training centre in public administration for candidates from the three territories in Libya was scheduled to open in October 1950. In connexion with the development of a civil service the United Kingdom had also requested UNESCO and FAO to provide fellowships and scholarships to train 29 Libyans. France had asked UNESCO for ten fellowships for training teachers.

The Commissioner reported that WHO had prepared a preliminary survey, at his request, of Libya's public health requirements. WHO had also been asked to explore the possibilities of granting more fellowships for medical assistants, of providing expert advice on public health administration and of supplying instructional material for medical assistants and books and periodicals for medical libraries.

The Commissioner reported that he had made a detailed statement to the Economic and Social Council, at its eleventh session, on the need for

early technical and financial assistance for Libya. In accordance with his request, the Council had called the attention of the Secretary-General and the heads of the specialized agencies participating in the Expanded Programme of Technical Assistance to the special need for early consideration of Libya's requirements. It had also asked the Secretary-General to present specific proposals to the Assembly to enable Libya to continue to receive technical assistance after achieving independence and before it became a Member of the United Nations.

Stressing the need for technical assistance, the Commissioner said that he shared the feeling of the Libyans that the United Nations had a special responsibility towards their country. He therefore reiterated his appeal to the United Nations, its specialized agencies and Member Governments to provide technical and financial assistance to Libya through the United Nations, governmental or private sources.

Two supplements (A/1405 & A/1459/Rev.1) to the Commissioner's report dealt further with the discussions on the manner of the appointment of members of the National Assembly. The first discussed the rejection by the Committee of Twenty-One of the proposal that members of the National Assembly should be elected. The second reported that the Committee of Twenty-One had approved unanimously on 22 October the following method of appointment of members of the National Assembly.

(a) Representatives of Cyrenaica would be selected by Amir Sayed Mohamed Idris El Senussi, and representatives of The Fezzan by Ahmad Bey Seif el Nasr. As proposed unanimously by the Tripolitanian representatives in the Committee of Twenty-One, the representatives of Tripolitania would be selected by the Chairman of the Committee, Mohamed Abul Asad el Alem, who, after the necessary consultations and conversations, could draw up a list of candidates and submit it to the Committee not later than 26 October 1950.

(b) Non-national minorities would not be allowed to participate or to be represented in the National Assembly. Their rights, however, would be fully safeguarded in the future constitution.

(c) The National Assembly would hold its first meetin Tripoli on 25 November 1950.

(b) REPORTS OF THE ADMINISTERING POWERS

The report of the French Administration gave detailed information on the political, economic, cultural and social problems of The Fezzan. It stated that the French administration in full agreement with the United Nations Commissioner had set up the necessary government departments in The Fezzan. The election of Ahmed Bey Seif el Nasr as the Chief of the Territory had been followed by the appointment of political, financial and administrative officers who now exercised most of the governmental powers under the authority of the Bey under the control of the French Administration. Certain powers, like those concerning defence and foreign affairs, were reserved for the Administering Power.

The report of the British Administration stated, among other things, that, on 1 June 1949, the United Kingdom Government had agreed to the formation of a Cyrenaican Government with responsibility for internal affairs, and also to recognize the Amir of Cyrenaica as the head of that Government. On 16 September 1949, the Amir had enacted with the consent of the United Kingdom Government, a constitution for Cyrenaica which had come into force on 18 September 1949. The report then gave details of the constitutional machinery set up for governing Cyrenaica and of the elections held in the territory on 5 June 1950 for the election of members of the Cyrenaican Assembly.

In regard to Tripolitania, the British Administration reported that, after consultations with the United Nations Commissioner, a programme had been inaugurated for the transfer of power to the people of that territory. The programme was in three stages: (1) creation of an Administration Council; (2) inauguration of a Representative Assembly; (3) transfer of power to the Administrative Council and the Assembly. The Administrative Council was inaugurated on 15 May 1950, following consultations with the political leaders of Tripolitania and with the concurrence of the Commissioner. It was hoped to hold elections for the Assembly as soon as practicable; these had been delayed owing to the opposition of the inhabitants of Tripolitania to the participation of non-Libyan minorities in the election.

The report reviewed the administrative and judicial systems of Tripolitania and gave an account, supported by figures, of the "Libyanization" of the civil service. It also described the economic and financial policy followed in Cyrenaica and Tripolitania with a view to the establishment of Libyan independence.

(2) Consideration in the Ad Hoc Political Committee

The reports of the United Nations Commissioner in Libya (A/1340) and of the Administering Powers (A/1387 & A/1390) were considered first by the Assembly's Ad Hoc Political Committee, at its 7th to 17th meetings, 9-19 October

1950. The Committee's discussions were principally concerned with two aspects of the question, one relating to the independence of Libya and the other to the economic and financial provisions to be applied in that country.[104]

The Italian Observer with the United Nations, the Chairman of the United Nations Council for Libya and another member of that Council selected by him (the representative of Pakistan) were invited to participate in the Committee's discussions. The United Nations Commissioner in Libya was invited to present his report and to make explanatory statements.

(a) **DRAFT RESOLUTION BEFORE THE COMMITTEE**

The following draft resolutions were presented to the Committee:

(i) Draft resolution by the USSR (A/AC.38/L.10), which would provide that the three parts of Libya be united in a single State, that legislative and executive organs for Libya be established, that all foreign troops and military personnel be withdrawn from Libya within three months and that military bases be dismantled.

(ii) Joint draft resolution submitted by Canada, Chile, Ecuador and Greece, which, taking note of the reports that had been received, would recommend that the Administering Powers press forward with the formation of governmental institutions for Libya in accordance with the wishes of the people in order to facilitate the establishment of an independent and sovereign Libya not later than 1 January 1952. The draft resolution would also urge the Economic and Social Council, the specialized agencies and Members of the United Nations to continue to assist Libya, through technical and financial assistance, to develop a sound and viable economy, and would reaffirm the recommendation that Libya be admitted to the United Nations upon its establishment as an independent State.

(iii) Joint draft resolution (A/AC.38/L.13/Rev.1) submitted by Egypt, Indonesia, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria and Yemen, which would call upon the authorities concerned to ensure the full and effective implementation of resolution 289 A (IV) of 21 November 1949 and particularly to safeguard the unity of Libya and the early transfer of power to an independent Libyan Government. It would also recommend that a National Assembly representative of the inhabitants of Libya be convened not later than 1 January 1951, and that this Assembly should set up not later than 1 March 1951 a Provisional Government to which all the powers exercised by the Administering Powers should be transferred.

(b) DISCUSSIONS IN THE **COMMITTEE**

The following points of view were expressed in the Committee:

The representative of the USSR stated that there were forces at work in Libya which were preventing the establishment of a free and independent Libyan State, in accordance with the Assembly's decision of 1949. Britain and France, he said, were doing their utmost to divide Libya by exploiting regional differences through the creation of puppet régimes in the three different territories comprising the country. In Cyrenaica the British had recognized the Amir Sayed el Senussi as head of a government with very limited powers and wholly dependent upon the British authorities, and Cyrenaican troops were being raised under British officers along the lines of the Arab Legion in Jordan. Protests against this action made by Libyan associations, even when addressed to the Secretary-General, had produced no effect. The United Nations Commissioner in Libya appeared to be satisfied with the explanation given to him by the Amir and had done nothing to prevent the formation of this army. A similar policy was being followed in The Fezzan where the French had proclaimed Ahmad Bey Seif el Nasr as head of the territory.

Analysing the events of the past year, the representative of the USSR stated that the United Nations Commissioner had allowed the administering Powers to act as they wished, even to the extent of adopting a policy of partitioning the territory, although some members of the Libyan Council had expressed concern at such a policy. The Soviet representative therefore concluded that the Commissioner was covering up the illegal acts of the United Kingdom and France which aimed at partitioning Libya with the ultimate purpose of creating an armed camp in Africa for the benefit of the Western Powers.

At present, he stated, there were in Libya, occupation forces, military personnel and bases of three foreign Powers. In addition, in violation of the Italian Peace Treaty, the United Kingdom, in January 1948, had ceded the air force base of Mellaha to the United States by a unilateral and illegal treaty. The Western Powers, he maintained, planned to exert pressure on the people and government of Libya in order to consolidate their position in the Mediterranean basin. Libya was to serve as a base for the aggressive policies of those Powers and as a link with the oil regions of the Near East. The maintenance in Libya of foreign troops and bases was contrary to the interests of Libya and to the principles of the United Nations. The territory could only be developed as an independent State if all foreign military personnel and bases were withdrawn. It was to achieve this purpose, he said, that the USSR had presented its draft resolution.

Statements in support of the USSR draft resolution were made by the representatives of Po-

[104] See pp. 355-59.

land and the Ukrainian SSR, who stated that the British and French colonizers were using their ancient motto "divide and rule" in order to strengthen their hold upon Libya. Quoting Press reports, the representative of Poland stated that the Mellaha air base ceded to the United States by the British administration was now known as the Wheelus Field and had become a key base for the United States from where, according to strategic experts, heavy bombers could penetrate deep into Soviet territory. The representative of Poland further stated that in Cyrenaica elections had been held to give a shadow of legality to the puppet régime of the Amir el Senussi, while in Tripolitania Libyan leaders had opposed the holding of elections under present conditions as these could not be free. A fait accompli had been presented in The Fezzan, parts of which, he stated, had been attached to France's North African colonies. Trade was being oriented towards Tunis rather than towards Tripoli. The Council of Libya was doing nothing to prevent these partition measures which were also acquiesced in by the United Nations Commissioner in Libya.

The representative of the Ukrainian SSR criticized the formation of the Committee of Twenty-One, which, he said, was undemocratically constituted, since it consisted of equal numbers of representatives from each of the three zones of Libya despite the difference in their populations. Through their "political deal", it was stated, the colonial Powers were seeking to set up a token federal structure in Libya which would, in reality, be simply a clandestine maintenance of the colonial régimes.

The representatives of Egypt, Indonesia, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria and Yemen, speaking in support of the draft resolution jointly sponsored by them, held that it was deplorable to give equal representation to the three regions of Libya in the National Assembly in view of the disparity in their populations. This would, they held, enable the minority to exercise a veto over the wishes of the majority. The only means of unifying Libya lay in preparing for a National Assembly composed on the basis of proportional representation. The Assembly resolution of 1949, it was stated, was based on two fundamental ideas: first, that it was necessary to protect the unity of Libya against any efforts to disrupt it; and, secondly, the principle that the authority exercised by the Administering Powers should be transferred to the Libyans themselves. So far, they contended, the resolution was not being satisfactorily implemented. Certain restrictions were being placed on the movements of goods and people, three different currencies and administrative systems existed in Libya and certain parts of The Fezzan had been attached to Tunisia and Algeria. Further, a citizenship law had been enacted in Cyrenaica a few weeks after the adoption of the Assembly's resolution on Libya. This, is was stated, was not likely to facilitate the unification of the country, and yet the United Nations Commissioner had accepted it as a fait accompli. The Council for Libya had not been invited to give its views regarding the establishment of the administrative council in Tripolitania and the election of an Assembly in The Fezzan. The sole result of these measures had been, it was stated, to encourage certain separatist tendencies in Libya.

These representatives held that it was for the Libyans to draw up their own constitution and determine the form of their future government. The main objective of the eight-Power draft resolution was to give them the means to do so.

Replying to the criticism that the Assembly's resolution on Libya had not been properly implemented and that the Administering Powers had failed to transfer their powers to the Libyan people, the representative of Canada stated that the relevant paragraph of the Assembly resolution had enjoined those Powers to initiate immediately all necessary steps for the transfer of power to a duly constituted independent Government, not to effect any immediate transfer of power.

Self-government, he stated, was a complex and delicate problem for a people which had not previously enjoyed independence and which would find great difficulty in recruiting civil servants, especially in the technical field. Citing the reports before the Committee, the representative of Canada stated that the majority of the government posts in Libya, including judicial and administrative posts, were now held by Libyans. After such a beginning, he stated, there should be no misgivings that the Assembly resolution on Libya would not be fully implemented within the stipulated period.

The representative of Canada was supported by the representatives of Brazil, Chile, Ecuador and Greece, who expressed their approval of the work of the United Nations Commissioner in Libya.

The United Kingdom representative, in reply to the criticism of the actions of the Administering Power, stated that since the war the United Kingdom had maintained a decent standard of living for the people of Libya only by considerable financial sacrifice. The United Kingdom, it was stated, was spending something like $4,750,000 a year

in that area and would gladly free itself from that responsibility. The real question was not the form of the future Libyan state but that it should be economically viable.

Answering the allegation made by the representative of the USSR, the representative of the United Kingdom stated, that no attempt had been made to create a Cyrenaican army on the model of the Arab Legion, but that a personal bodyguard of about a hundred men had been raised for the protection of the Amir and to make up for the reduced strength of the local police force. There was, he stated, no puppet régime in Tripolitania; in fact, the people of Tripolitania had not been able to agree on an electoral law, and had been opposed to the holding of free and early elections. The Cyrenaican elections had been held in a regular way and there had been no criticism of them among the people concerned. Any steps taken towards federation had been due to the fear of the Fezzanese and the Cyrenaicans of being overwhelmed by the numerical superiority of their neighbours.

At the 13th meeting of the Committee, on the motion of the representative of Ecuador, the Committee agreed to adjourn for a few days in order to permit the sponsors of the three draft resolutions to meet informally in an effort to harmonize their views and produce a single text.

(c) CONSIDERATION OF JOINT THIRTEEN-POWER DRAFT RESOLUTION

As a result of their informal consultations, Canada, Chile, Ecuador, Egypt, Greece, India, Indonesia, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria and Yemen submitted at the fifteenth meeting a joint draft resolution (A/AC.38/L.15) which combined the four-Power draft resolution (A/AC.38/L.12) and the eight-Power draft resolution (A/AC.38/L.13/Rev.1).

The new text referred in the preamble to the Assembly's resolve (resolution 289 A (IV)) that Libya should be constituted a united, independent and sovereign State and, after noting the increasing co-operation of the Administering Powers with the United Nations Commissioner and the mutual co-ordination of their activities, would express the confidence that the Commissioner, aided by the Council, would take necessary steps toward the achievement of the independence and unity of Libya pursuant to the Assembly resolution 289(IV); would call on the authorities concerned to ensure early, full and effective implementation of that resolution and particularly the realization of the unity of Libya and the transfer of power to an independent Libyan Government. It would recommend that a National Assembly be convened before 1 January 1951 which would establish a provisional Government as early as possible, with 1 April 1951 as the target date; would recommend further that the Administering Powers progressively transfer powers to the Provisional Government in a manner to ensure that all powers would be transferred to the duly constituted Libyan Government by 1 January 1952, and that the Commissioner aided by the Council, draw up a programme for this transfer of power in co-operation with the Administering Powers; would urge the Economic and Social Council, the specialized agencies and the Secretary-General to extend to Libya such technical and financial assistance as it might request; and would reaffirm the recommendation that the independent Libya be admitted to the United Nations.

The following amendments were proposed to this joint draft resolution:

(a) Australian amendment (A/AC.38/L.16), to change the words in the first paragraph of the preamble from "a united independent and sovereign State" to "one independent and sovereign State"

(b) Argentine amendment (A/AC.38/L.17), to insert in the preamble a new paragraph recalling the recommendation that the Administering Powers, in co-operation with the United Nations Commissioner, administer the territories for the purpose of assisting in the establishment of Libyan unity and independence

(c) Pakistani amendment (A/AC.38/L.18), to add a provision whereby the Provisional Government would be responsible to the National Assembly, and to add at the end of the clause a proviso that, if the National Assembly were unable to set up a Provisional Government by 31 March 1951, the Commissioner, advised and guided by the Council for Libya, should at once proceed to set up a Provisional Government in consultation with the National Assembly

(d) United States amendment (A/AC.38/L.19), to replace the text of the paragraph dealing with technical and financial assistance by a new text drawing the attention of the Economic and Social Council, the specialized agencies and the Secretary-General to the need to extend to Libya, at the request of that country, such technical and financial assistance as they might be in a position to render in order to establish a sound basis for economic and social progress

(e) Israeli amendment (A/AC.38/L.20), which in the preamble would make the National Assembly representative of all the inhabitants of Libya

The original USSR draft remained unchanged before the Committee which then debated the new proposals.

A majority of representatives, including those of Bolivia, Brazil, Burma, Chile, China, Cuba, the Dominican Republic, the Union of South Africa, the United States, Uruguay and Yugoslavia, spoke in favour of the thirteen-Power draft resolution,

which, in their opinion, represented a compromise between the different points of view expressed. They all opposed the USSR draft resolution, which, they stated, offered no constructive solution and was intended to impose on Libya a highly centralized unitary form of government. The form of government, they argued, could best be decided by the National Assembly of Libya rather than by the General Assembly.

The representatives of Egypt, India, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria and Yemen, among others, supported in principle the provision in the USSR draft for the withdrawal of foreign troops from Libya and regretted that such a provision had not been included in the thirteen-Power draft. They also supported the provision that the three parts of Libya be united. They stated, however, that they would abstain from voting on the part of the USSR draft resolution recommending the dismantling of military installations as that was a matter for the independent Libyan Government to decide.

The representative of the USSR, supported by the representatives of the Byelorussian SSR and Czechoslovakia, stated that though the joint draft resolution represented an improvement over the previous texts it would still permit the Administering Powers to encourage separatist tendencies in Libya. He therefore submitted an amendment which would delete from the preamble of the joint draft resolution a reference to the "increasing co-operation of the administering Powers with the Commissioner and the mutual co-ordination of their activities". The USSR representative, however, maintained that his earlier proposal was the only real solution for the future of Libya.

Replying to certain points that had been raised in the debate, particularly by the representative of the USSR, the representative of France stated that no "puppet Government" had been established in The Fezzan, where governmental authorities had been set up with the assistance and agreement of the population. The representative of Tripolitania and Cyrenaica had never questioned the legitimacy of those governmental authorities. It had been alleged that the establishment of separate governments for the three territories of Libya was a manoeuvre to sabotage the unification of the country but, the representative of France said, a similar position existed in a certain number of federal States such as the USSR, the United States and Germany, where constituent parts of very different sizes were represented in the assemblies.

The only objective criticism that could be made, the representative of France observed, was the absence of a government in Tripolitania, where party rivalry was creating a situation which was against the interests of the country. It was essential, he said, to establish in Tripolitania representative institutions based on popular election.

Giving particulars of the situation involving the parts of The Fezzan which were administratively linked to Algeria and Tunisia, the representative of France stated that one of them, Ghadames, had taken full part in the political life of The Fezzan and of Libya. It had sent three delegations to the Assembly of The Fezzan which elected the Chief of the Territory of The Fezzan. Its leader was a member of the Committee of Twenty-One. The position was different in regard to another part, Ghat-Serdeles, which, he stated, was inhabited not by Arabs or Berbers but by Tuaregs of the Sharan region, who had refused to take part in the election of the Chief of the Territory.

Referring to the question of military forces and bases, he said that the French forces in The Fezzan did not number more than 500, which was not excessive in view of the size of the territory. If strategic questions arose again and again, it was not the Western States which were to blame but the general insecurity of the world.

The representative of Italy recalled that according to the report of the United Nations Commissioner in Libya, the Preparatory Committee of Twenty-One had decided that non-national minorities should not be represented in the Libyan National Assembly. He said that he would be grateful if the Commissioner would clarify what was meant by "non-national minorities" and also indicate the political consequences which the decision might entail.

The General Assembly resolution of 1949, he asserted, had established that the "inhabitants" of Libya would participate in setting up the new State. It had given the minorities the right to be represented on the Council for Libya, and a representative of the minorities had participated in the Committee of Twenty-One. If the recent decision of the Committee of Twenty-One were carried out, it would be a violation of the letter and the spirit of the Assembly resolution. Furthermore, to deprive a part of the inhabitants of Libya, namely those of Italian, Jewish, Maltese or Greek origin, would be a discriminatory measure which would be against both the Assembly resolution and the spirit of the Charter.

The Chairman of the Council for Libya stated that the Arabs had not forgotten their sufferings under Fascist Italy, which accounted for their dis-

trust of the Italy of today. The Italian minority of 45,000, he stated, would not readily give up its interests in Libya, which they regarded as their home. Thanks to the wisdom of the Italian minority's representative on the Libyan Council and the goodwill of some of the Arab leaders, the situation had improved, particularly in Tripolitania where the Italians had convinced the Arabs of their goodwill. More time and goodwill would be needed, however, to solve the problem completely.

In a concluding statement, the Commissioner for Libya said that the question of Libyan minorities was a highly delicate one and that the word "inhabitants", used in the Assembly resolution, had been subject to different interpretations. Replying to the Italian observer on the Committee, he stated that the term "non-national minorities" which the Committee of Twenty-One had used did not include Jews, but only those members of minorities which had foreign passports. His own view was that it would be contrary to the interests of the minorities if they were allowed to participate in the National Assembly.

At the 17th meeting of the Committee, the Vice-Chairman made an explanatory statement on behalf of the thirteen sponsors of the joint draft resolution stressing the following points on which amendments had been submitted:

(a) that the inclusion of the word "united" in the first paragraph of the preamble was not intended to impose on the Libyan people a unitary State against their wishes, nor in any way to prejudge the form of Government;

(b) that the use of the words "increasing co-operation of the Administering Powers" should not be interpreted to imply any criticism;

(c) that, while it was not possible to specify the financial implications of the paragraph dealing with technical and financial assistance, that paragraph was intended to emphasize the need of the new State for technical and financial assistance to enable it to found its nationhood on a firm economic basis;

(d) that parts of the General Assembly resolution of 1949, in particular the recommendation regarding the admission of the independent Libya to the United Nations, had been reiterated in order to enhance the morale of the people of Libya.

At the same meeting, the amendments proposed by Argentina, Australia and the United States were withdrawn on the understanding that the clarification made on behalf of the sponsors would be included in the Rapporteur's report. The representative of Pakistan withdrew his amendment in the interest of unanimity.

The representative of Israel withdrew his amendment on the understanding that the word "inhabitants" in the joint draft resolution was not intended to have a prohibitive meaning, excluding certain sections of the population from equal participation in the life of the new State, and that it was the desire of the Committee that adequate safeguards for the protection of the rights of minorities should be included in the future constitution of Libya.

The draft resolution proposed by the USSR, the USSR amendment to the joint draft resolution and the thirteen-Power draft resolution were then put to the vote. The vote on the USSR draft resolution (A/AC.38/L.10) was as follows:

Paragraph 1: adopted by 20 votes to 18, with 17. abstentions; first part of paragraph 2: rejected by 38 votes to 13, with 8 abstentions; second part of paragraph 2: rejected by 38 votes to 5, with 15 abstentions. Draft resolution as a whole: rejected by 38 votes to 13, with 7 abstentions.

The vote on the USSR amendment and the joint thirteen-Power draft resolution was as follows:

Oral amendment of the USSR proposing the deletion of the reference in the preamble to the "increasing co-operation of the Administering Powers with the United Nations Commissioner and the mutual co-ordination of their activities": rejected by 42 votes to 5, with 6 abstentions. Joint draft resolution: adopted paragraph by paragraph, by votes ranging from 58 to none with 1 abstention, to 53 to none with 7 abstentions. Draft resolution as a whole: adopted by 53 votes to 1, with 5 abstentions.

(3) Consideration by the Fifth **Committee**

In accordance with rule 152 of the Assembly's rules of procedure, the Fifth Committee, at its 259th and 261st meetings on 3 and 7 November 1950, considered the effect on the budget estimates for 1951 of the draft resolution adopted by the Ad Hoc Political Committee concerning Libya (A/1457).

The Fifth Committee had before it a report by the Secretary-General (A/C.5/392), informing it that the funds which he estimated would be required for the implementation of this draft resolution and of the General Assembly resolution 289 (IV), would amount in 1951 to a total of $619,300, against which there would be offsetting income of $50,000 from the assessments to be levied on the salaries of internationally recruited and temporary replacement staff.

In response to the Fifth Committee's request, the Advisory Committee on Administrative and Budgetary Questions examined the Secretary-General's estimates and reported its conclusions to the Fifth Committee in its twelfth report of 1950 (A/1479). It concluded that the estimate as submitted by the Secretary-General should be reduced by a global amount of $37,100 to a total of $575,000, for which provision would be re-

quired to be made. The Fifth Committee was informed that the Secretary-General was prepared to concur in the Advisory Committee's recommendation on the understanding that the reduction proposed was to be of a global nature, the detailed application of which would be left to his discretion.

The Fifth Committee rejected by a vote of 25 to 6, with 13 abstentions, a proposal by Pakistan, amended by Egypt, that the Secretary-General's estimates be reduced by a total of $90,030, distributed over salaries of internationally recruited staff, local transportation and on travel and subsistance of staff. The recommendation of the Advisory Committee that, for purpose of implementing the draft resolution, budgetary provision would be required in the amount of $575,000, after allowing the transfer of $7,200 to section 25 of the budget estimates was then approved unanimously.

(4) Consideration by the General Assembly in Plenary Session

The reports of the Ad Hoc Political Committee (A/1457) and of the Fifth Committee (A/1509 & Corr.1) were considered by the General Assembly at its 305th, 306th and 307th plenary meetings on 16 and 17 November 1950.

The USSR reintroduced the draft resolution previously rejected by the Ad Hoc Political Committee (A/1511) which among other things, would provide that the various parts of Libya—Cyrenaica, Tripolitania and The Fezzan—should be united in a single State and that all foreign troops be withdrawn and military bases dismantled.

The following amendments were orally proposed to the draft resolution recommended by the Ad Hoc Political Committee (A/1457):

(a) Egyptian amendment, to provide specifically for the election of the National Assembly for Libya.

(b) El Salvador amendment, which proposed that target date for the convening of the National Assembly (1 January 1951) and that for the establishment of the Provisional Government of Libya (1 April 1951) should be extended by two months in order to permit the holding of elections.

(c) South African amendment, to provide that the Economic and Social Council and the Secretary-General would be required to extend only such technical and financial assistance as they were in a position to offer.

The representative of Lebanon stated that the decision of the Committee of Twenty-One that equal representation in the future National Assembly of Libya would be accorded to each of its three regions was not fair in view of the disparity of their populations. If, he maintained, the future constitution of Libya was to be defined and elaborated by a body elected on this principle then the will of the General Assembly would be "traduced". If this was not the case, then the present National Assembly should be recognized as a constituent assembly to prepare a constitution which would ultimately be submitted to the Libyan people or their elected representatives. He suggested that the United Nations Commissioner, on whose authority the National Assembly had been appointed, appear before the General Assembly to explain his concept of the National Assembly's functions.

This point of view was shared by the representatives of Egypt, El Salvador, Iraq, Pakistan and Syria. The representative of Iraq requested specific assurances from the Commissioner that the final Libyan constitution would be based upon democratic principles creating a national assembly actually representing the Libyan people, and that the present National Assembly would function only as a drafting body.

Elaborating these points, the representative of Syria stated that it was disappointing that the National Assembly had been appointed and not elected and that the people of Tripolitania, who represented more than 75 per cent of the whole population of Libya, were to have only one third of the votes in this non-elected and arbitrarily appointed Assembly. He emphasized that the words "representative of the inhabitants" in the Assembly resolution (289 A (IV)) could only mean deputies elected by the inhabitants on a parliamentary basis and that an appointed body could not fulfil that condition. Furthermore, the words "representatives of the inhabitants" were not synonymous with "representatives of territories". Had it been intended, the representative of Syria argued, that Libya should be divided into three territories for purposes of representation, the resolution would have referred to "representatives of Cyrenaica, Tripolitania and The Fezzan".

The representative of the USSR, supported by the representatives of Czechoslovakia, Poland and the Ukrainian SSR, stated that the elective principle was a universally recognized principle in all democracies and that the manner in which the present National Assembly had been created was further proof of the attempts of the Administering Powers to promote sectionalism in Libya and to forestall the establishment of a unified and independent State. He supported the amendment proposed by El Salvador that the dates for the convening of the National Assembly and the formation of the Provisional Government be

changed in order to allow time for the preparation for elections. He also urged the Assembly to adopt the draft resolution proposed by his delegation.

The United Nations Commissioner in Libya stated that the appointment rather than the election of the representatives to the National Assembly had been decided upon by the Committee of Twenty-One against his advice. The principle of equal representation, he stated, had been agreed upon as a political expedient which The Fezzan and Cyrenaica had made a condition of their participation in the National Assembly. Neither of these principles, he stated, should be incorporated in the final constitution of Libya. He would propose to the Council of Libya, he said, that the constitution formulated by the present National Assembly be considered as a provisional instrument subject to approval and, if necessary, to amendment by a parliament elected by the Libyan people as a whole.

As regards the amendments which had been submitted by Egypt and El Salvador, the representatives of France, Greece, the United Kingdom and the United States held that the Committee's draft resolution represented a compromise in the interest of unanimity and that it was difficult to entertain amendments to a compromise measure. The representative of France stated that the principle of equal representation, as adopted in the instance of the Libyan National Assembly, was a "classical" method of representation in international law which was followed whenever a State was to be constituted from parts enjoying equal rights at the time when they entered into a contractual relationship.

Replying to a question by the representative of Turkey, the United Nations Commissioner stated that in his opinion even with the extension which the amendments proposed by the representative of El Salvador would allow, the time was not sufficient for organizing and conducting nation-wide elections in Libya.

In reply to the argument advanced by the representative of France, the representative of Lebanon stated that the three provinces of Libya were administrative divisions and not States and were therefore not entitled to equal representation.

The United Nations Commissioner finally stated that a bicameral legislature with a senate chosen by the three territories and a popular chamber elected by all the people, would, in his opinion, reconcile the needs of unity and territorial "particularism". He would, he said, recommend that the Council for Libya consider such a solution.

At the 307th meeting of the Assembly on 17 November 1950, the President put the draft resolutions and the amendments to the vote.

South African amendment: adopted by 52 votes to none, with 2 abstentions

Egyptian amendment: 24 votes in favour, 20 against, with 15 abstentions—therefore not adopted, having failed to obtain the required two-thirds majority

(The President announced that it was not necessary to put the amendment proposed by El Salvador to the vote.)

Draft resolution recommended by the Ad Hoc Political Committee, as amended: adopted by 50 votes to none, with 6 abstentions

At the request of Iraq the vote on the USSR draft resolution (A/1511) was taken in paragraphs with the following results:

First paragraph recommending that the parts of Libya (Cyrenaica, Tripolitania and The Fezzan) be united in a single State and that legislative and executive organs for Libya be established: 23 votes in favour, 21 against with 10 abstentions—not adopted, having failed to obtain the required two-thirds majority. First part of the second paragraph, recommending the withdrawal of all foreign troops from Libya: rejected by 36 votes to 11, with 5 abstentions. Second part of the second paragraph, recommending the dismantling of military bases: rejected by 36 votes to 7, with 11 abstentions

The text of the draft resolution (387(V)) adopted by the General Assembly follows:

The General Assembly,

Having resolved by its resolution 289 A (IV) of 21 November 1949 that Libya shall be constituted a united independent and sovereign State,

Having noted the report of the United Nations Commissioner in Libya, prepared in consultation with the Council for Libya, and those of the administering Powers, submitted in accordance with General Assembly resolution 289 A (IV), as well as the statements made by the United Nations Commissioner and the representatives of the Council for Libya,

Having noted in particular the confidence expressed by the United Nations Commissioner that the aim of the General Assembly, namely, that Libya should become an independent and sovereign State, will be attained within the time-limit prescribed, with the increasing co-operation of the administering Powers with the United Nations Commissioner and the mutual co-ordination of their activities toward that end,

Having noted the statements in the above-mentioned report of the United Nations Commissioner regarding the needs of Libya for technical and financial assistance both before and after independence, if such assistance is requested by the Government of Libya,

1. Expresses confidence that the United Nations Commissioner in Libya, aided and guided by the advice of the members of the Council for Libya, will take the necessary steps to discharge his functions toward the achievement of the independence and unity of Libya pursuant to the above-mentioned resolution;

2. Calls upon the authorities concerned to take all steps necessary to ensure the early, full and effective implementation of the resolution of 21 November 1949, and particularly the realization of the unity of Libya

and the transfer of power to an independent Libyan Government; and, further,

3. Recommends:

(a) That a National Assembly duly representative of the inhabitants of Libya shall be convened as early as possible, and in any case before 1 January 1951;

(b) That this National Assembly shall establish a Provisional Government of Libya as early as possible, bearing in mind 1 April 1951 as the target date;

(c) That powers shall be progressively transferred to the Provisional Government by the administering Powers in a manner which will ensure that all powers at present exercised by them shall, by 1 January 1952, have been transferred to the duly constituted Libyan Government;

(d) That the United Nations Commissioner, aided and guided by the advice of the members of the Council for Libya, shall proceed immediately to draw up a programme, in co-operation with the administering Powers, for the transfer of power as provided in subparagraph (c) above;

4. Urges the Economic and Social Council, the specialized agencies and the Secretary-General of the United Nations to extend to Libya, in so far as they may be in a position to do so, such technical and financial assistance as it may request in order to establish a sound basis for economic and social progress;

5. Reaffirms its recommendations that, upon its establishment as an independent State, Libya be admitted to the United Nations in accordance with Article 4 of the Charter.

b. ECONOMIC AND FINANCIAL PROVISIONS TO BE APPLIED IN LIBYA

The question of economic and financial provisions for Libya was introduced by the representative of the United Kingdom at the 7th meeting of the Ad Hoc Political Committee on 9 October 1950, during the Committee's consideration of other questions affecting Libya (see above).

The Committee had before it a United Kingdom draft resolution (A/AC.38/L.9) relating to the economic and financial provisions to be applied in Libya, in accordance with Annex XIV, paragraph 19, of the Treaty of Peace with Italy, and providing, inter alia, for the establishment of a United Nations Arbitral Tribunal.

(1) Consideration in the Ad Hoc Political Committee

At the outset of the debate at the 7th meeting, the Committee heard a statement by the United Nations Commissioner in Libya, who said that the settlement of the problem of economic and financial provisions of the Italian Peace Treaty had been delayed by the legal and practical difficulties involved which, in turn, had given rise to serious economic problems. The status of very large amounts was still undecided and the Administering Powers still continued to regard them as ex-enemy property. This complicated matter, it was stated, was closely linked with that of war damage. Those problems would have to be settled by the General Assembly.

The representative of the United Kingdom stated that there were many claims over different kinds of ex-enemy property. Libya, he considered, was unable to shoulder any share of the Italian public debt and some arrangements would have to be made in that respect. For many reasons, it had not been possible to finish examining the question of provisions concerning the property formerly belonging to the Italian State, or that of "parastatal property and undertakings", a term still undefined.

The position of Italian interests in the territories was stated by the representative of the United Kingdom to be as follows: There were, on the one hand, certain rights inherent in the ownership of the state or parastatal property; on the other hand, there were liabilities arising from the Italian public debt, some local contractual engagements entered into between the Italian metropolitan and local Governments, and finally, private property.

The United Kingdom Government, it was stated, had come to the conclusion that the most practical solution was for the General Assembly to appoint a special tribunal of arbitration to examine these questions on the spot and make recommendations. The Assembly might give the proposed tribunal instructions in the form of general principles. Otherwise, aside from the general principles of international law and procedure, the tribunal might be guided by provisions similar to those already governing the Peace Treaty with Italy as regards the disposal of property in former Italian territories. The United Kingdom had therefore submitted a draft resolution (A/AC.38/L.9), which, he stated, if adopted would dispel all uncertainty about property rights in. Libya.

Speaking later in the debate, the representative of Italy questioned the legal basis of the United Kingdom proposal on the economic and financial provisions to be applied to the territory. That proposal, he said, was based on an extension of Annex XIV of the Italian Peace Treaty, which contained the text of the economic and financial provisions relating to the territories ceded by Italy. The Annex, however, the Italian representative contended, specifically provided that its economic and financial provisions would not apply to the former Italian colonies and, therefore, this problem should not be considered without pre-

vious consultation with the Italian Government. The United Kingdom proposals, he stated, would lead to all Italian data being completely ignored, which would be neither legal nor just.

From the legal point of view, the representative of Italy argued, if Italy were denied the right to participate in drawing up strict provisions concerning its responsibilities in Libya, it would be tantamount to imposing upon it the indeterminate obligation of accepting any decision which might be taken without its consent. The Assembly should first decide if this was legitimate; it was a question of legal principle which would constitute a precedent in international law.

At its 11th meeting on 12 October, on a suggestion by the representative of Greece, the Committee decided, without objection, to set up a seven-member sub-committee to examine the United Kingdom proposal. The Sub-Committee (Sub-Committee 1), composed of the representatives of Argentina, Belgium, Egypt, France, Greece, Poland and the United Kingdom, was to study the United Kingdom draft resolution (A/AC.38/L.9) and to make recommendations. It was decided that the observer from the Italian Government, the Chairman of the United Nations Council for Libya, and the United Nations Commissioner in Libya could take part in the sub-committee's work in an advisory capacity.

Sub-Committee 1 held twenty-eight meetings and submitted its report (A/AC.38/L.70) to the Ad Hoc Political Committee on 11 December 1950. The draft resolution adopted by the Sub-Committee, by 6 votes to 1, was divided into two parts. The ten articles of Part A related, inter alia, to the transfer of property owned by the Italian State (article 1), the pensions owed by Italy (article 3), the rules to be applied to the property rights and interests of Italian nationals (article 6), and the special provisions concerning concessions (article 9). The draft resolution provided for a United Nations Tribunal of three members to give instructions and to decide all disputes between the authorities concerned relating to the application of Economic and Financial Provisions (article 10).

Part B provided for the staff and all expenses necessary to carry out the terms of the draft resolution (for text as adopted, see below).

The Ad Hoc Political Committee considered the report of the sub-committee at its 81st and 82nd meetings on 13 and 14 December 1950. At its 82nd meeting, the Committee, by 26 votes to 5, with 9 abstentions, rejected a USSR proposal to defer further consideration of the matter until the Assembly's sixth session, at which time it would be possible to hear a representative of independent Libya. The Committee adopted, by 34 votes to 5, with 13 abstentions, the draft resolution (A/AC.38/L.70) submitted by Sub-Committee 1. It also agreed to include in its report the explanations contained in the Sub-Committee's report on certain points of the draft resolution (see below).

(2) Resolution Adopted by the General Assembly

The report of the Ad Hoc Political Committee on the economic and financial provisions relating to Libya (A/1726) was discussed by the Assembly at its 326th plenary meeting on 15 December 1950.

The representative of the USSR stated that the draft resolution on economic and financial provisions relating to Libya had been submitted by the Ad Hoc Political Committee only on 12 December and that most delegations, including his own, had not had sufficient time to study it. He therefore proposed that the Assembly postpone its consideration till its next session. This proposal was rejected by the Assembly by 44 votes to 6, with 5 abstentions.

The Assembly then voted on draft resolution A, followed by draft resolution B, submitted by the Ad Hoc Political Committee, with the following results:

Preamble to draft resolution A: adopted by 46 votes to 5, with 2 abstentions. Operative part of the same draft resolution: adopted by 47 votes to 5, with 2 abstentions. Draft resolution B: adopted by 49 votes to 5, with 2 abstentions.

In explanation of his vote and of his wish that the voting on the resolution should have been postponed, the representative of Poland stated that, having taken part in two meetings of Sub-Committee 1 of the Ad Hoc Political Committee, he had been confronted with a number of voluminous documents regarding the matter under discussion. It was only on 12 December that a report was submitted to the Ad Hoc Political Committee. He had found that the Committee had come to the end of its agenda and that members were supposed to hasten a decision without proper discussion. It was his opinion that neither the Committee nor the Assembly had had the time to examine the item which was of a very serious nature as it might affect the future economic development of Libya. The representative of Czechoslovakia expressed a similar point of view.

The representative of Egypt stated that during the discussion of this item in the Sub-Committee

and in the Ad Hoc Political Committee he had been impressed with the spirit of justice and understanding displayed. The Sub-Committee's draft resolution did not in any way, in his opinion, neglect or sacrifice the interests of Libya.

The text of the resolution (388(V)) adopted by the General Assembly follows:

A

Whereas, in accordance with the provisions of article 23 and paragraph 3 of annex XI of the Treaty of Peace with Italy, the question of the disposal of the former Italian colonies was submitted on 15 September 1948 to the General Assembly by the Governments of France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

Whereas, by virtue of the above-mentioned provisions, the four Powers have agreed to accept the recommendation of the General Assembly and to take appropriate measures for giving effect to it,

Whereas the General Assembly, by its resolutions of 21 November 1949 and of 17 November 1950, recommended that the independence of Libya should become effective as soon as possible, and in any case not later than 1 January 1952,

Whereas paragraph 19 of annex XIV of the Treaty of Peace with Italy, which contains the economic and financial provisions relating to ceded territories, states that "The provisions of this annex shall not apply to the former Italian colonies. The economic and financial provisions to be applied therein will form part of the arrangements for the final dispoal of these territories pursuant to article 23 of the present Treaty",

Whereas it is desirable that the economic and financial provisions relating to Libya should be determined before the transfer of power in that territory takes place, in order that they may be applied as soon as possible,

The General Assembly

Approves the following articles:

Article I

1. Libya shall receive, without payment, the movable and immovable property located in Libya owned by the Italian State, either in its own name or in the name of the Italian administration of Libya.

2. The following property shall be transferred immediately:

(a) The public property of the State (demanio pubblico) and the inalienable property of the State (patrimonio indisponibile) in Libya, as well as the relevant archives and documents of an administrative character or technical value concerning Libya, or relating to property the transfer of which is provided for by the present resolution;

(b) The property in Libya of the Fascist Party and its organizations.

3. In addition, the following shall be transferred on conditions to be established by special agreement between Italy and Libya:

(a) The alienable property (patrimonio disponibile) of the State in Libya and the property in Libya belonging to the autonomous agencies (aziende autonome) of the State;

(b) The rights of the State in the capital and the property of institutions, companies and associations of a public character located in Libya.

4. Where the operations of such institutions, companies and associations extend to Italy or to countries other than Libya, Libya shall receive only those rights of the Italian State or the Italian administration which appertain to the operations in Libya. In cases where the Italian State or the Italian administration of Libya exercised only managerial control over such institutions, companies and associations, Libya shall have no claim to any rights in those institutions, companies or associations.

5. Italy shall retain the ownership of immovable property necessary for the functioning of its diplomatic and consular services and, when the conditions so require, of the schools necessary for the present Italian community whether such property is owned by the Italian State in its own name or in the name of the Italian administration of Libya. Such immovable property shall be determined by special agreements concluded between Italy and Libya.

6. Buildings used in connexion with non-Moslem public worship and their appurtenances shall be transferred by Italy to the respective religious communities.

7. Special agreements may be concluded between Italy and Libya to ensure the functioning of hospitals in Libya.

Article II

Italy and Libya shall determine by special agreements the conditions under which the obligations of Italian public or private social insurance organizations towards the inhabitants of Libya and a proportionate part of the reserves accumulated by the said organizations shall be transferred to similar organizations in Libya. That part of the reserves shall preferably be taken from the real property and fixed assets in Libya of the said organizations.

Article III

Italy shall continue to be liable for the payment of civil or military pensions earned as of the coming into force of the Treaty of Peace with Italy and owed by it at that date, including pension rights not yet matured. Arrangements shall be concluded between Italy and Libya providing for the method by which this liability shall be discharged.

Article IV

Libya shall be exempt from the payment of any portion of the Italian public debt.

Article V

Italy shall return to their owners, in the shortest possible time, any ships in its possession, or that of its nationals, which are proved to have been the property of former Italian nationals belonging to Libya or to have been registered in Libya, except in the case of ships acquired in good faith by Italy or its nationals.

Article VI

1. The property, rights and interests of Italian nationals, including Italian juridical persons, in Libya, shall, provided they have been lawfully acquired, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign juridical persons.

2. Italian nationals in Libya who move, or who have since 3 September 1943 moved, to Italy shall be permitted freely to sell their movable and immovable property, realize and dispose of their assets, and, after settlement of any debts or taxes due from them in Libya, to take with them their movable property and transfer the funds they possess, unless such property and funds were unlawfully acquired. Such transfers of property shall not be subject to any import or export duty. The conditions of the transfer of this movable property to Italy will be fixed by agreement between the administering Powers or the Government of Libya upon its establishment on the one hand, and the Government of Italy on the other hand. The conditions and the time-periods of the transfer of the funds, including the proceeds of above-mentioned transactions, shall likewise be determined.

3. Companies incorporated under Italian law and having their siège social in Italy shall be dealt with under the provisions of paragraph 2 above. Companies incorporated under Italian law and having their siege social in Libya and which wish to remove their siege social to Italy shall likewise be dealt with under the provisions of paragraph 2 above, provided that more than 50 per cent of the capital of the company is owned by persons usually resident outside Libya and provided also that the greater part of the activity of the company is carried on outside Libya.

4. The property, rights and interests in Italy of former Italian nationals belonging to Libya and of companies previously incorporated under Italian law and having their siege social in Libya, shall be respected by Italy to the same extent as the property, rights and interests of foreign nationals and of foreign companies generally. Such persons and companies are authorized to effect the transfer and liquidation of their property, rights and interests under the same conditions as may be established under paragraph 2 above.

5. Debts owed by persons in Italy to persons in Libya or by persons in Libya to persons in Italy shall not be affected by the transfer of sovereignty. The Government of Italy and the administering Powers or the Government of Libya after its establishment shall facilitate the settlement of such obligations. As used in the present paragraph, the term "persons" includes juridical persons.

Article VII

Property, rights and interests in Libya which, as the result of the war, are still subject to measures of seizure, compulsory administration or sequestration, shall be restored to their owners, and, in cases submitted to the Tribunal referred to in article X of the present resolution, following decisions of that Tribunal.

Article VIII

The former Italian nationals belonging to Libya shall continue to enjoy all the rights in industrial, literary and artistic property in Italy to which they were entitled under the legislation in force at the time of the coming into force of the Treaty of Peace. Until Libya becomes a party to the relevant international convention or conventions, the rights in industrial, literary and artistic property which existed in Libya under Italian law shall remain in force for the period for which they would have remained in force under that law.

Article IX

The following special provisions shall apply to concessions:

1. Concessions granted within the territory of Libya by the Italian State or by the Italian administration of Libya, and concession contracts (patti colonici) existing between the Ente per la Colonizzazione della Libia or the Istituto della Previdenza Sociale and the concessionaires of land to which each contract related shall be respected, unless it is established that the concessionaire has not complied with the essential conditions of the concession.

2. Land placed at the disposal of the Ente per la Colonizzazione della Libia and of the colonization department of the Istituto della Previdenza Sociale by the Italian State or the Italian administration of Libya and which has not been the object of a concession shall be transferred immediately to Libya.

3. Land, buildings and their appurtenances referred to in sub-paragraph (d) of paragraph 4 below shall be transferred to Libya in accordance with the arrangements to be made under that sub-paragraph.

4. Special agreements between Italy and Libya shall provide for:

(a) The liquidation of the Ente per la Colonizzazione della Libia and of the colonization department of the Istituo della Previdenza Sociale, the interim status of those institutions for the purpose of enabling them to fulfil their obligations towards concessionaires whose contracts are still in operation, and, if necessary, the taking over of their functions by new organizations;

(b) The repayment by those institutions to financial concerns of the quotas subscribed by the latter in the establishment of the Ente per la Colonizzazione della Libia, and, in the case of the Istituto della Previdenza Sociale, the reconstitution of that part of its reserves invested by that institution in its colonization department;

(c) The transfer to Libya of the residual assets of the institutions to be liquidated;

(d) Arrangements relating to land placed at the disposal of these institutions and to the buildings on and appurtenances to that land, in which, after their abandonment by the concessionaires, no further investment could be made by the institutions;

(e) Payments in amortization of the debts of concessionaires owed to those institutions.

5. In consideration of the renunciation by the Italian Government of its claims against those institutions, the latter shall cancel the debts of the concessionaires and the mortgages securing those debts.

Article X

1. A United Nations Tribunal shall be set up, composed of three persons selected by the Secretary-General for their legal qualifications from the nationals of three different States not directly interested. The Tribunal, whose decisions shall be based on law, shall have the following two functions:

(a) It shall give to the administering Powers, the Libyan Government after its establishment, and the Italian Government, on request by any of those authorities, such instructions as may be required for the purpose of giving effect to the present resolution;

(b) It shall decide all disputes arising between the said authorities concerning the interpretation and appli-

cation of the present resolution. The Tribunal shall be seized of any such dispute on the unilateral request of one of those authorities.

2. The administering Powers, the Libyan Government after its establishment and the Italian Government shall supply the Tribunal as soon as possible with all the information and assistance it may need for the performance of its functions.

3. The seat of the Tribunal shall be in Libya. The Tribunal shall determine its own procedure. It shall afford to the interested parties an opportunity to present their views, and shall be entitled to request information and evidence which it may require from any authority or person whom it considers to be in a position to furnish it. In the absence of unanimity, the Tribunal shall take decisions by a majority vote. Its decisions shall be final and binding.

B

The General Assembly

Authorizes the Secretary-General, in acordance with established practice,

1. To arrange for the payment of an appropriate remuneration for the members of the United Nations Tribunal set up under article X above and to reimburse their travel and subsistence expenses:

2. To assign to the United Nations Tribunal such staff and provide such facilities as the Secretary-General may consider necessary to carry out the terms of the present resolution, utilizing the existing United Nations staff of the Libyan Mission in so far as possible.

Following is the text of the explanations of certain points in the foregoing resolution appended to the report of the Ad Hoc Political Committee (A/1726):

Article I, paragraph 2 (a):

It is understood that the Italian Government will facilitate the return to Libya of any archives or documents of an administrative character or technical value, property of the Italian State, which are in Italy and which the Libyan Government would have the right to request of it under this paragraph.

The words documents of "technical value" apply, inter alia, to documents concerning archaeological research projects which are being carried out or are to be carried out in Libya.

Article I, paragraph 3:

Italy abandons her right to property transferred under this paragraph, as a contribution to the rehabilitation of Libya.

Article I, paragraph 3(b):

The rights mentioned in this sub-paragraph include share holdings and similar rights owned by the Italian State either in its own name or in the name of the Italian administration of Libya.

Article I, paragraph 6:

The expression "buildings used in connexion with non-Moslem public worship" includes all objects used in connexion with public worship in those buildings.

It is understood that mosques and objects used in connexion with Moslem public worship will be transferred directly to the Libyan State.

It is also understood that the maintenance of cemeteries shall be the subject of special agreements.

Article IV:

Italy renounces all her claims to any payment whatsoever from Libya in respect of debts, in view of the economic conditions of that country.

Articles V; VI, paragraph 4; VIII:

The phrase "former Italian nationals belonging to Libya" means, in particular, the indigenous population of Libya.

Article VII:

It is understood that this article does not affect the requisitions made by the authorities for the needs of the administration.

Article VIII:

It is understood that the second paragraph applies to aliens only, and not to the Libyans themselves.

Article IX, paragraph 4(c):

It is understood that if the final balance sheet of the institutions shows a debit balance, no part of such liability will be transferred to the Libyan Government.

Article X, paragraph 1:

The Tribunal "whose decisions shall be based on law" shall apply the rules of law, and shall not decide ex aequo et bono. It will thus apply the General Assembly resolution in the light of the principles of international law and of the rules for the interpretation of international texts.

Article X:

The Sub-Committee discussed the period during which the Tribunal should remain in existence. Although it is difficult to foresee precisely the time it will take that body to accomplish its task, the Sub-Committee believes that it might take at least two or three years. In this connexion, much will depend on the time it will take to conclude the several special Italo-Libyan Agreements provided for in the resolution.

The Sub-Committee further believes that the General Assembly should in any case examine either at its seventh, or at its eighth session at the latest, and in the light of the progress then made by the Tribunal, the question of whether its functions should be continued. By then, Italy and Libya might desire either to maintain the Tribunal jointly, assuming the corresponding financial obligations, or prefer to replace it by a different procedure.

Article X, paragraph 3 (last sentence):

In specifying that the decisions of the Tribunal should be binding, the Sub-Committee does not intend to infer that this does not apply to the instructions given by the Tribunal.

c. TECHNICAL ASSISTANCE FOR LIBYA

(1) Consideration by the Economic and Social Council

The General Assembly, in resolution 289 A (IV),[105] had empowered the United Nations Commissioner in Libya to offer suggestions to the Economic and Social Council and to the

[105] For text, see Y.17.N., 1948-49, p. 275-76.

Secretary-General on measures that the United Nations might adopt during the transitional period regarding the economic and social problems of Libya.

Accordingly, the United Nations Commissioner on 12 August 1950 communicated to the eleventh session of the Council, held in Geneva from 3 July to 8 August 1950, his suggestions on that subject (E/1758/Rev.1). The United Nations Commissioner stressed Libya's present need for technical assistance both to formulate its future administrative organization and for its economic development. He stated that the Libyan people had frequently and urgently requested him to "bring them the resources and assistance of the United Nations not only to achieve their unity and independence, but also to assist in their economic development". The Council for Libya and the United Kingdom and France as Administering Powers had also expressed their concurrence in the need for such assistance.

After dealing with the points regarding technical assistance covered in his report[106] and after referring to the preliminary steps in that connexion taken by the Secretary-General, the Administering Powers and the United Nations specialized agencies, the Commissioner suggested that the Economic and Social Council recommend to the General Assembly and Member Governments that, in view of the special responsibilities of the United Nations to assist Libya to organize its administration and to create a viable economy, the Secretary-General, within the terms of the programme of technical assistance, should give particular consideration to Libyan needs. Assistance, he suggested, should be envisaged for the transitional period before independence and for the longer-range needs of Libya after the achievement of independence.

Furthermore, since only States Members of the United Nations or specialized agencies were eligible for technical assistance, the Commissioner "strongly" suggested that special provision be made for continuing a technical assistance programme for Libya during "the possible hiatus period" between its achievement of independence and the time when it formally became a Member of the United Nations and the specialized agencies.

"In view of the important considerations raised in the statement of the United Nations Commissioner", the Secretary-General, in his note transmitting the statement (E/1758/Rev.1), suggested a draft resolution for consideration by the Economic and Social Council, which, after referring to the Assembly resolutions 289 A (IV) and 266(III)[107] and recognizing the Libyan need for assistance, would request the Secretary-General and the executive heads of the specialized agencies participating in the Technical Assistance Board to pay due regard to the technical assistance needs for Libya; and would further request the Secretary-General to present to the fifth regular session of the General Assembly specific proposals as to the procedure which would enable Libya to continue to receive technical assistance, after its independence had been achieved and before it had become a Member of the United Nations or of a specialized agency participating in the expanded programme.

The draft resolution submitted by the Secretary-General (E/1758/Rev.1) was considered by the Council at its 413th meeting on 15 August 1950, when another draft resolution, intended to replace the text proposed by the Secretary-General, was presented jointly by the delegations of Chile and the United States (E/L.103) (see below for text as adopted).

During the Council's consideration of the question, the United Nations Commissioner in Libya was invited to participate in the discussion and made a statement in support of his communication.

The representatives of Chile, France, India, Iran, Pakistan, Peru, the United Kingdom and the United States indicated that Libya stood in great need, not only of technical assistance but also of adequate financial assistance. This, it was stated, was urgent in view of the scant natural resources of Libya and the very inadequate level of training of its people in public administration and various skills. It was also felt that, in view of resolution 289 A (IV), the United Nations had a special responsibility for promoting the economic development and social progress of Libya and for ensuring that no interruption in the technical assistance granted to Libya at present would take place upon its becoming an independent State and until such time as Libya would be eligible to submit its own requests.

The Council adopted the draft resolution submitted jointly by Chile and the United States (322 B (XI)), by 14 votes to none, with 1 abstention. It read as follows:

[106] See pp. 345-47.

[107] Recommended that the Economic and Social Council should, in planning its activities in connexion with economically under-developed regions, take into consideration the problems of the development of the former Italian colonies.

B

The Economic and Social Council

Mindful of the decision taken by the General Assembly on 21 November 1949, and, embodied in resolution 289 A (IV), that Libya should be constituted an independent State, under the auspices of the United Nations, not later than 1 January 1952, and

Having also sympathetically considered the suggestions communicated to it by the United Nations Commissioner for Libya, in accordance with paragraph 9 of the above-mentioned resolution, and

Recognizing that the people in Libya stand in great need of assistance in the development of their economy and in the establishment of an efficient public administration in order to create an independent and economically viable State,

Draws the attention of the Secretary-General, the executive heads of the specialized agencies, and the Technical Assistance Board to the special need for early action in Libya;

Requests the Secretary-General to present to the fifth regular session of the General Assembly specific proposals as to the procedure which would enable Libya to continue to receive technical assistance after its independence has been achieved and before it has become a Member of the United Nations or of a specialized agency participating in the expanded programme.

(2) Consideration by the General Assembly at Its Fifth Session

In accordance with this resolution, the Secretary-General presented to the General Assembly specific proposals (A/1404) as to the procedure which would enable Libya to continue to receive technical assistance after its independence had been achieved, and before it had become a Member of the United Nations or of a specialized agency participating in the Expanded Programme. The question was considered by the Assembly's Second Committee at its 135th meeting on 8 November, 136th meeting on 10 November and 137th meeting on 14 November.

The Secretary-General stated that the objective sought by the Economic and Social Council could best be achieved by a decision of the Assembly requesting the Council and the specialized agencies to consider Libya as eligible for technical assistance without regard to its membership in any of the United Nations organizations. Accordingly, he submitted a draft resolution to the Assembly, which referred to Assembly resolution 289 A (IV), to Economic and Social Council resolution 322 B (XI) and to the proposal of the Secretary-General as to the procedure which would enable Libya to continue to receive technical assistance. Further, "recognizing that Libya should receive technical assistance in the development of its economy and in the establishment of an efficient public administration, and that it should be eligible to receive technical assistance without interruption after the attainment of independence", the draft resolution would request "the Economic and Social Council and the specialized agencies concerned to consider Libya as eligible to receive technical assistance under Economic and Social Council resolution 222 A (IV) as soon as it shall be constituted an independent State in accordance with General Assembly resolution 289 A (IV)".

The following amendments were proposed to the draft resolution submitted by the Secretary-General:

(i) Pakistani amendment (A/C.2/L.65/Rev.1), which would substitute for the penultimate paragraph of the draft resolution (see above) the following text: "Recognizing that Libya should receive technical assistance in the development of its economy and that it should be eligible to receive such technical assistance as the Libyan Government may request after the attainment of independence, provided that pending the receipt of such a request existing technical assistance may continue."

(ii) Joint amendment by Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen (A/C.2/L.66) to replace the final paragraph (see above) by the following: "Recommends that the need for preparing a complete plan for the economic, social and cultural development of Libya shall be borne in mind by the appropriate authorities when requesting technical assistance for Libya or when considering requests for technical assistance for Libya."

(iii) Uruguayan amendment (A/C.2/L.67/Rev.1), which, after a drafting change in the last paragraph of the operative part, would add the following as an Article 2: "Instructs the Secretary-General of the United Nations to study, prepare and submit to the Economic and Social Council a draft plan of technical, cultural and financial assistance sufficient to improve the economic and social development of Libya."

There was agreement in the Committee as to Libya's need for technical assistance and as to United Nations responsibility in the matter. Most members of the Committee, including the representatives of Australia, Canada, Chile, Egypt, Greece, India, Iraq and Yugoslavia, were of the opinion, however, that the Pakistani and Uruguayan amendments were unnecessary. There was general support in the Committee for the amendment proposed by Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen.

At its 137th meeting on 14 November, the Committee unanimously adopted a joint draft resolution, submitted by Chile, Egypt, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Uruguay and Yemen (A/C.2/L.68), which incorporated the substance of all the proposals put forward as well as a new Uruguayan amendment (A/C.2/-L.69) to reword the final paragraph (see below).

The report of the Second Committee (A/1513) was presented to the General Assembly at its 308th plenary meeting on 17 November 1950.

The draft resolution recommended by the Second Committee was adopted unanimously by the Assembly without a debate (398(V)). It read as follows:

The General Assembly,

Mindful of its resolution 289 A (IV) of 21 November 1949,

Having considered Economic and Social Council resolution 322 B (XI) of 15 August 1950, and the proposal of the Secretary-General as to the procedure which would enable Libya to continue to receive technical assistance after its independence has been achieved and before it has become a Member of the United Nations or of a specialized agency participating in the expanded programme of technical assistance,

Considering the special responsibility of the United Nations for the future of Libya,

Recognizing the need for continuing technical assistance to Libya without interruption, even after the attainment of its independence, for the development of its economy, for its social progress and for the improvement of its public administration,

Recognizing further the need for immediate study of a complete plan for the economic, social and cultural development of Libya,

1. Requests the Economic and Social Council and the specialized agencies concerned to consider Libya, as soon as it shall be constituted an independent State in accordance with General Assembly resolution 289 A (IV), as eligible to continue to receive technical assistance, in such form as the Government of Libya may request, from the expanded programme of the United Nations and in accordance with the fundamental principles and other provisions of Economic and Social Council resolution 222 A (IX);

2. Instructs the Technical Assistance Board, when giving technical assistance to Libya, to be mindful of the economic unity and independence of Libya in accordance with the aforesaid fundamental principles laid down in resolution 222 A (IX) of the Economic and Social Council and in resolution 304 (IV) of the General Assembly;

3. Recommends that the need for preparing a complete plan for the economic, social and cultural development of Libya shall be borne in mind by the appropriate authorities when requesting technical assistance for Libya or when considering requests for technical assistance for Libya.

d. TECHNICAL AND FINANCIAL ASSISTANCE IN RELATION TO WAR DAMAGES

During the consideration by the Ad Hoc Political Committee of the economic and financial provisions relating to Libya (see above), the representative of Egypt, at the 81st meeting on 13 December 1950, submitted a draft resolution (A/AC.38/L.75) which proposed that the Secretary-General should be instructed to study the problem of war damages suffered by Libya, in connexion with the technical and financial assistance which Libya might request from the organs of the United Nations, and to report on the subject to the sixth session of the General Assembly.

During the discussion in the Committee, the United Nations Commissioner in Libya recalled that he had raised the question in his annual report and had mentioned it in his opening statement before the Committee. He had again raised it before Sub-Committee 1, which had decided that it did not come within its terms of reference —which were the financial and economic provisions relating to Libya. From the Libyan point of view, the problem was important since Libyan territory had suffered heavy damage during the war. The city of Benghazi had undergone 800 air raids and, as a result, only one fourth of it had remained intact. Tobruk had been completely destroyed and the harbour of Tripoli had been severely damaged. On the main road between Tripoli and Benghazi, not a single bridge had remained. Accordingly, he supported the Egyptian draft resolution. The Egyptian draft resolution was also supported by the representatives of Canada, Turkey and the United Kingdom. The representative of Belgium suggested that the draft should be entitled "Technical and financial assistance to Libya" and that if adopted should be made the subject of a separate report to the General Assembly. Both suggestions were accepted.

The Committee adopted the draft resolution by 40 votes to none, with 1 abstention.

The draft resolution recommended by the Ad Hoc Political Committee (A/1727) was unanimously adopted by the General Assembly at its 326th plenary meeting on 15 December 1950. The text of the resolution 389(V) adopted by the General Assembly read:

Whereas Libya as a result of the war has suffered extensive damages to private and public property, both movable and immovable, as well as to its system of communications,

Whereas the existence of these war damages and the necessity of repairing them represents one of the major economic and financial problems to be taken into consideration in order that an independent Libya may be established with a sound basis for economic and social progress, which is one of the avowed purposes of the United Nations in accordance with paragraph 4 of the resolution adopted by the General Assembly on 17 November 1950,

The General Assembly,

Instructs the Secretary-General to study the problem of war damages in connexion with the technical and financial assistance which Libya may request from the Economic and Social Council, the specialized agencies. and the Secretary-General, and to report on the subject to the sixth session of the General Assembly.

2. Eritrea

By resolution 289 A (IV), adopted at the fourth session, the General Assembly, among other things, established the United Nations Commission for Eritrea to ascertain more fully the wishes of the inhabitants of Eritrea and the means of promoting their future welfare. The Commission was to prepare a report and to submit proposals, so that the matter might be considered by the General Assembly at its fifth session. The Interim Committee of the General Assembly was asked to consider the Commission's report and to submit its conclusions to the fifth session of the Assembly.

a. REPORT OF THE UNITED NATIONS COMMISSION FOR ERITREA

The United Nations Commission for Eritrea, which consisted of the representatives of Burma, Guatemala, Norway, Pakistan and the Union of South Africa, after examining the situation on the spot, consulting with the Governments interested in the question (Egypt, Ethiopia, France, Italy and the United Kingdom) and hearing the views of the representatives of the principal political parties in Eritrea, submitted its report (A/1285) to the General Assembly on 28 June 1950. The Commission was unable to submit unanimous conclusions and consequently its report consisted of two memoranda: (i) submitted by Burma, Norway and the Union of South Africa; (ii) submitted by Guatemala and. Pakistan.

The memorandum by Burma, Norway and the Union of South Africa surveyed the geography, population, economic resources, agricultural productivity, trade and finance of Eritrea and also detailed its conclusions regarding the wishes of the people and the views of the principal political parties. As regards population, it concluded that the total number of inhabitants was 1,067,000 of which 524,000 were Moslem, 506,000 Christian and 8,000 pagan. A majority of the Moslems (315,000) lived in the Western Province of Eritrea and a majority of the Christians (470,000) lived in the Highlands.

These various groups, it was stated, had different economic habits and different forms of social organization, and lived in different areas though the boundaries were blurred by seasonal migrations and overlapping of tribal areas. The bulk (78 per cent) of the population was rural. Since 1933, however, considerable urbanization had occurred, mainly at Asmara (126,000) and at the Red Sea port, Massawa (26,000).

As regards the future political status of the country, these delegations concluded that the poverty of the country and its dependence on Ethiopia's resources and transit trade precluded its complete independence. They were of the opinion that there were close affinities between large sections of the Eritrean population and the Ethiopian peoples and that the two countries had common strategic interests. They were convinced that in the interests of peace in East Africa and the welfare of the Eritrean people, the best solution of the problem would have to be one based on Eritrea's close political association with Ethiopia. They expressed the fear that the present situation, in which violence had inexcusably been committed by sectors of the Eritrean population, would deteriorate unless a final solution was quickly reached. These delegations, however, differed among themselves as to the precise formula to be applied in Eritrea. The delegations of Burma and South Africa recommended that Eritrea be constituted a self-governing unit of a federation of which the other member would be Ethiopia, under the sovereignty of the Ethiopian crown.

The representative of Norway recommended that Eritrea be reunited with Ethiopia on the understanding that the Western Province of Eritrea would be left for a limited period under the present (British) administration and would later be given an opportunity of deciding which of its two neighbouring countries it wished to join, Eritrea-Ethiopia or the Sudan.

The representatives of Burma and South Africa further stated that the continuance of Italian enterprise in Eritrea was a vital factor in the future economic development of the country and, therefore, the personal and property rights of the Italian community should be safeguarded. In this regard, they urged that the General Assembly propose friendly discussions with a view to reaching a suitable agreement on the question between the Italian and the Ethiopian Governments.

The representatives of Guatemala and Pakistan, in their memorandum, rejected any separation of the Western Province from the rest of Eritrea, on the ground that it would lead to the fragmentation of the Moslem population. These representatives maintained that, while the population of the Eritrean plateau had a certain affinity with the Ethiopian province of Tigre, no general or important affinity existed between Ethiopia and Eritrea. On the contrary, they contended, Eritreans bore resentment and even hostility towards the neighbouring country. The delegations felt that the

economic, ethnic, historical and security reasons, together with others advanced in favour of annexation, were not sufficient to justify their recommending that solution to the United Nations, nor were they convinced that the majority of the population wished it, or that this would be the best course for promoting the welfare of the inhabitants. Observing that Eritrea did not now possess a sufficient number of trained people to assume its own government immediately, the two delegations stressed that a certain period of time must be allowed for the general development of the inhabitants. The representatives of Guatemala and Pakistan agreed that Italians, whose contribution to the economic life of the country they acknowledged, must be protected and they held that this could best be done by creating an independent Eritrea where there would be no racial or other discrimination. In a separate note, the delegation of Pakistan wished to record that it did not agree with the population figures supplied by the British administration, which showed that nearly half the population of Eritrea was Moslem and a little under half was Coptic (Christian). These figures, it was stated, were not based on any census and could not be regarded as accurate; the Moslem League claimed that 70 per cent of the population of Eritrea was Moslem and that, even in the Highlands, Moslems were equal in number to the Coptic Christians.

On the basis or these findings the representatives of Guatemala and Pakistan recommended that Eritrea be placed under direct United Nations Trusteeship for a maximum period of ten years, at the end of which it should become completely independent.

The report of the Commission was considered by the Interim Committee of the General Assembly at the Committee's third session held between January and September 1950, but the Committee did not make any recommendations due to lack of agreement among members and to the short time at its disposal between the consideration of this item and the opening of the Assembly's fifth session.[108]

b. CONSIDERATION BY THE AD Hoc POLITICAL COMMITTEE

The report of the United Nations Commission for Eritrea (A/1285) and the report of the Interim Committee (A/1388) were considered by the Ad Hoc Political Committee at its 37th to 40th and again at its 48th to 56th meetings between 8 and 25 November.

The following draft resolutions were submitted:

(a) Draft resolution submitted by the USSR (A/AC.38/L.31), which would have the General Assembly recommend: that Eritrea should be granted independence immediately; that the British occupation forces should be withdrawn from Eritrea within three months of the day on which this decision would be adopted by the General Assembly; and that Ethiopia should be ceded that part of the territory of Eritrea which was necessary to secure Ethiopia's access to the sea through the port of Assab.

(b) Draft resolution submitted by Iraq (A/AC.38/L.32/Rev.1), which, inter alia, would recommend that the question of whether Eritrea should enter into some form of federation with Ethiopia under the Ethiopian crown or become an independent sovereign State, Ethiopia being granted suitable access to the sea, be determined not later than 1 July 1951 by a national Assembly duly representative of the people of Eritrea. It also provided for the appointment of a United Nations Commissioner in Eritrea and a Council to aid and guide him and to assist the people of Eritrea to decide the above question and to effect its implementation.

(c) Joint draft resolution submitted by Bolivia, Brazil, Burma, Canada, Denmark, Ecuador, Greece, Liberia, Mexico, Panama, Paraguay, Peru, Turkey and the United States (A/AC.38/L.37 & Corr.1), which would recommend a detailed plan whereby Eritrea would constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown. The. joint draft resolution provided for a transition period which should not extend beyond 15 September 1952, during which the Eritrean government would be organized and the Eritrean constitution prepared and put into effect. It also provided for the appointment by the General Assembly of a United Nations Commissioner for Eritrea who would be assisted by experts appointed by the Secretary-General of the United Nations.

(d) Draft resolution submitted by Poland (A/AC.38/L.47), which would recommend that Eritrea be granted independence after three years and that during that period it be governed by a Council of six members: one from Ethiopia, two from the Arab countries, and three from Eritrea, the latter comprising two from the indigenous and one from the European population of the territory. The Council would report annually to the General Assembly. It would appoint an Administrator with executive authority and responsible to itself. The resolution further recommended that British occupation forces be withdrawn within three months of the adoption of the resolution and that Ethiopia be ceded that part of Eritrea necessary to secure Ethiopia's access to the sea, through the port of Assab.

(e) Draft resolution submitted by Pakistan (A/AC.38/L.48), recommending that Eritrea be constituted an independent and sovereign State not later than 1 January 1953, and that a national Assembly, to be convened not later than 1 October 1951, should frame a constitution for Eritrea and should set up a provisional government, bearing in mind 1 April 1952 as the target date. It recommended that all powers exercised by the Administering Power be progressively transferred to this provisional government, the transfer to be completed by 1 January 1953. The draft resolution further provided for the appointment of a United Nations Commissioner to assist the people of Eritrea in setting up a national

[108] See p. 408.

assembly, in formulating a constitution and in establishing an independent Eritrean Government. A Council consisting of representatives of five countries and three representatives of the Eritrean people would be established to advise and guide the Commissioner in the discharge of his functions. After making further proposals concerning procedures in the interim period, the draft resolution recommended that Eritrea, upon its establishment as an independent State, be admitted to the United Nations, in accordance with Article 4 of the Charter.

The Committee adopted, by 31 votes to 16, with 9 abstentions, a proposal by Guatemala that a representative of the Moslem League of Eritrea be invited to participate, without vote, in the debate. It also adopted, by 53 votes to none, with 1 abstention, a proposal by Ethiopia that all political parties in Eritrea which might ask to be heard and to participate in the debate on the question should be accorded the same privileges as the Moslem League delegation. The Chairman invited a representative of Italy to participate, without vote, in the proceedings of the Committee.

At the 49th and 55th meetings of the Committee the representative, of the Moslem League made statements (A/AC.38/L.46 & 52) and replied to questions.

Opening the debate in the Committee, the representative of the United Kingdom stated that Eritrea, besides being geographically divided, was composed of various nationalities and political groups and was so poor in natural resources that it was not economically viable. It was short of water and of cultivable land, with the result that its agricultural productivity was at a low level. It still had to import annually 12,500 tons, or one eighth of its annual requirements, of cereals. It had a small export industry, employing only 24,000 people. There were some mines, but these employed only 3,200 people in 1947. Consequently, the deficit in Eritrea's trading balance exceeded £1,600,000 or rather more than the territory's total export trade. This lack of resources meant a considerable budgetary deficit of £500,000, excluding the cost of military forces for maintaining peace and security. He considered that the best solution for Eritrea was to reunite the Eastern Province with Ethiopia and work out a separate solution for the Western Province.

Explaining the political aspects of the problem, the representative of the United Kingdom stated that Eritrea's population comprised numerous races, with different languages, traditions and religions, as well as an Italian minority of 20,000. The various political groups exaggerated the number of their adherents and the people themselves were largely inarticulate; their wishes could only be ascertained through self-styled leaders who might be representative only in varying degrees. Despite this confusion, he concluded, the consensus of opinion was in favour of union with Ethiopia. The United Kingdom, he declared, would do its best to implement proposals based on a federal solution, provided this seemed workable and was acceptable to Ethiopia. In that case it would be desirable that Italy also should accept that solution in view of the important Italian minority whose technical knowledge was of the greatest value to the economic life of the region.

The representative of Australia stated that the possibility of placing Eritrea under Trusteeship might have been studied more thoroughly. The territory's administration could have been placed under Ethiopia, and in that way Eritreans could have been prepared for eventual self-government. After a certain period the General Assembly could have reconsidered the question and ascertained for itself the wishes of the Eritrean people. A hasty decision could thus have been avoided. In the opinion of the representative of Australia, partition of the country would be tantamount to ignoring the wishes of the Eritreans, while independence would be inadvisable in view of the country's economic and political situation. He would, therefore, support a federation plan which would give adequate guarantees to the minorities and take into account the economic factors. Any such scheme should also provide for a federal court to adjudicate any disputes which might arise between the parties concerned.

The representative of Ethiopia stated that it was undeniable that a popular movement existed in Eritrea for a union with his country. A large number of Eritreans moved into Ethiopia regularly for seasonal work and, in fact, 200,000 Eritreans lived permanently in Ethiopia. Economically, the territory was entirely dependent upon its neighbours and derived its livelihood from the transit of goods to and from Ethiopia. Its almost total economic dependence on Ethiopia was only further proof that the two were not separate and alien.

The problem of minorities, he stated, did not complicate the issue in the case of Eritrea. The 250,000 Moslems of the Western Province represented less than 25 per cent of the total population. It would be unjust to ignore the wishes of a strong majority simply to satisfy this minority which, in any case, was itself divided. In view of Ethiopia's profound affinities with Arab countries, the Moslems of Eritrea had nothing to fear

from a union with Ethiopia. One fourth of the latter's population was Moslem and its commercial relations were largely with Moslem countries. Consistent with that spirit, Moslems as well as Christians from Eritrea would be called upon to participate in the government and national life of the united peoples.

The representative of the USSR stated that the question of former Italian colonies was not being settled by the General Assembly but through secret agreements, the most characteristic of which was the Bevin-Sforza agreement of May 1949. The report of the Commission, as well as the memoranda submitted by the delegations of South Africa, Burma and Norway, had noted that all political parties in Eritrea were opposed to the partition of the country. The same conclusion was borne out by the Four-Power Commission's report on Eritrea.[109] The representative of the USSR stated that whenever there was a question of granting a colony its independence, the interested colonial Power always claimed that the population was not yet ready to assume the responsibilities of government. It was not surprising that Eritrea, which had been under Italian domination for sixty years and under British domination for ten years, had not developed the same degree of national consciousness as other free countries. Nevertheless, he stated, mankind was now in an era of liberation of colonial peoples and it was inadmissible that a foreign Power should continue to rule a colonial country.

While expressing his sympathy and admiration for the Ethiopian people for their resistance to aggression by a colonial Power and while accepting Ethiopia's right of access to the sea, the representative of the USSR felt that no country could really be free if it wanted to enslave another. The USSR proposal, it was stated, was in harmony with the general purposes of the United Nations which, he maintained, should work for the liberation of the colonial peoples rather than in the interests of the colonial Powers.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland and the Ukrainian SSR also made statements in support of the USSR proposal. They maintained that the USSR draft resolution provided the only solution satisfying both the interests of the Eritrean people and the principles of the Charter, as well as meeting the legitimate interests and economic demands of Ethiopia. Stating that it was wrong to characterize Eritrea as not being economically viable, these representatives held that its advantageous geographical situation would ensure it a large foreign trade and that independence would stimulate its economic, political and social development.

The representative of Poland emphasized that though he unreservedly supported the USSR draft resolution he had proposed, as a compromise resolution, another draft resolution which, he stated, prescribed the conditions necessary to the emergence of Eritrea as an independent State. It respected the rights of minorities and neighbouring countries and, if adopted, would promote peace and security in East Africa. Those delegations which favoured independence but were not prepared to vote for immediate independence would find in the Polish draft resolution a satisfactory compromise, he concluded.

The joint fourteen-Power draft resolution was supported by a majority of the Committee and statements in its support were made by the representatives of Argentina, Burma, Brazil, Canada, Greece, Haiti, Paraguay, Turkey and the United States, among others. These representatives held that the joint draft resolution was the only proposal capable of providing a practical solution to the problem and reconciling all the interests involved. It represented an effort to assure the people of Eritrea the power to manage their own local affairs and safeguard their institutions and culture while at the same time meeting the legitimate interests of Ethiopia. Under the joint plan, the federal government would be responsible for defence, foreign affairs, currency and finance, foreign and inter-state commerce and external and inter-state communications. Such powers were necessary to a federal government in order to ensure its integrity and its relations with other nations, it was stated. The whole area of federation was to be a single customs unit, a provision which would assist the Eritrean economy.

The plan, these representatives maintained, would give the Eritreans their own government and constitution and would go a long way toward meeting the fundamental desires of that part of the population which desired independence. At the same time it preserved the unity of Eritrea and ensured Ethiopia's access to the sea. It included provisions to safeguard Eritreans against an abuse of power by the Ethiopian Government and guaranteed equality between the two members of the federation.

The representatives of Cuba, the Dominican Republic, El Salvador, Guatemala, Pakistan, Saudi

[109] Four Power Commission of Investigation for the Former Italian Colonies, Report on Eritrea, Vol. I, Sec. V, Ch. 4, par. (V), [1948].

Arabia and Uruguay, among others, criticized the joint draft resolution on the ground that it imposed very severe restrictions on the right of the Eritreans to self-determination. The only choice offered to the Eritrean people was the option of accepting or rejecting federation. They were not given the right to choose independence. Such a proposal, it was stated, could only prolong the existing uncertainty in Eritrea and might even increase the tension there.

Urging the adoption of the draft resolution presented by his delegation, the representative of Pakistan said that it would give the Eritreans the right to decide in favour of federation with Ethiopia, if the claim for independence proved to be a mistaken one. The Pakistan plan, it was stated, was similar to that which had been adopted in the case of Libya, and there was nothing to justify treating the two problems in different ways.

The representative of Iraq stated that one of the main defects of the joint draft resolution was that it made no provision for permitting the Eritrean people to exercise their right of self-determination. If the federation plan was approved, then some provision should be made by which it should be made possible for the Eritrean people to dissolve the federation if the partnership proved impracticable. Iraq's proposal, he stated, was the best means of solving the Eritrean problem.

In a final statement of his views the representative of the USSR stated that the federation plan amounted to "a marriage against the will of one of the parties" and it was a marriage which could not admit of divorce. He noted that several delegations had spoken in favour of independence, differing only as to the methods and waiting periods. If, he stated, the USSR proposal did not receive support of the majority, then his delegation would vote for the Polish draft.

In statements (A/AC.38/L.46 & 52) to the Committee, the representative of the Moslem League of Eritrea maintained that Moslems comprised three fourths of the territory's population. Of the 293 tribes in Eritrea, 197 were Moslems and 96 a mixture of Moslems and Christians. Summarizing the attitudes and aspirations of the Eritrean people, the representative of the Moslem League stated that they wanted immediate independence, formation of a democratic government, and maintenance of the territorial unity of Eritrea within its present frontiers. They were opposed to any plan for the partition of Eritrea or the annexation of any part of it to the Sudan or Ethiopia, and to any plan of union or federation with Ethiopia. The representative of the Moslem League further stated that if Ethiopia and its supporters were convinced that most Eritreans wanted union with Ethiopia, he wondered why they did not accept the Iraqi plan rather than attempt to impose federation on Eritreans without allowing them to decide their own future in accordance with democratic methods. He denied the statements made by some representatives that Eritrea was an arid and unfruitful region incapable of sustaining its population. On the contrary, he held, it was a fertile agricultural country with great potentialities of development which would be accelerated once the country became free.

At the 55th meeting, a telegram was read to the Committee from leaders of the Unionist Party of Eritrea and of the Independent Moslem League of Eritrea, which protested against the granting of a hearing to the representative of the Moslem League. The latter, it was alleged, did not speak for the people of Eritrea and was a "tool of foreign Powers". "Any statement by him about the future of Eritrea is under false pretense and does not convey the wishes of Eritreans", the telegram concluded.

The representative of Guatemala stated that the signatories of the telegram were representatives of groups favouring Ethiopia's annexation of Eritrea and that it was audacious on their part to deny that a man as eminent as the representative of the Moslem League did not represent Eritrea. The representative of Pakistan stated that the telegram was "somewhat illegal", having been sent by Eritreans from Cairo. No credence, he declared, could be placed in a document of that nature.

The representative of Italy stated that violence had been committed in Eritrea as a result of the undecided state in which the country found itself. Fifty-six Italians had fallen victim to political terrorism during the period when the United Nations was carrying out its preparatory work. This terrorism should be curbed. As regards the various proposals before the Committee, the representative of Italy stated that he considered it a moral duty to support the independence of Eritrea, particularly as the United Nations had granted independence to Libya and Somaliland. Eritrea, he said, was in a stronger position than either Libya or Somaliland inasmuch as it was situated on the crossroads to vital means of communication. Independence, he maintained, was demanded by a vast majority of the population of Eritrea including both Moslems and Copts.

He also made a plea for the protection of Italians, who, he stated, wished to continue their task of developing the country and of contributing to its progress. While expressing no opposition to the joint fourteen-Power draft resolution providing for federation, he emphasized that care should be taken to assure Eritrea real self-government.

At its 55th meeting on 24 November the Committee began voting on the draft resolutions before it.

USSR draft resolution (A/AC.38/L.31): voted on first and rejected, paragraph by paragraph, by votes ranging from 29 to 12 with 17 abstentions, to 36 to 8 with 12 abstentions

Polish draft resolution (A/AC.38/L.47): rejected, paragraph by paragraph, by votes ranging from 27 to 10 with 17 abstentions, to 36 to 8 with 14 abstentions

Pakistan draft resolution (A/AC.38/L.48): rejected, paragraph by paragraph, by votes ranging from 22 to 22 with 10 abstentions, to 29 to 16 with 14 abstentions

Iraq draft resolution (A/AC.38/L.32/Rev.1): rejected, paragraph by paragraph, by votes ranging from 27 to 22 with 11 abstentions, to 28 to 21 with 11 abstentions

Joint fourteen-Power draft resolution (A/AC.38/L.37 & Corr.1) adopted by 38 votes to 14 with 8 abstentions

At its 64th meeting on 30 November the Ad Hoc Political Committee adopted and recommended to the Assembly an additional draft resolution, submitted jointly by the representatives of Brazil, Canada, Mexico, Turkey and the United States (A/AC.38/L.59), proposing that a Committee composed of the President of the General Assembly, two of the Vice-Presidents (Australia and Venezuela) and the Chairman of the Fourth Committee, should nominate a candidate or, if no agreement could be reached, three candidates for the post of United Nations Commissioner for Eritrea.

c. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The report of the Ad Hoc Political Committee (A/1561/Add.1), containing the two draft resolutions adopted by it, was considered by the General Assembly at its 315th and 316th plenary meetings on 2 December, when Poland and the USSR reintroduced the draft resolutions which had been rejected by the Ad Hoc Political Committee. The views expressed in the Assembly were similar to those that had been expressed in the Committee debate.

Referring to his proposal made in the Committee, the representative of Iraq stated that it had envisaged a national Assembly for Eritrea which would decide the question of federation or independence. That solution had not been accepted. Since then, however, he had received assurances from Addis Ababa that the Arab and Moslem communities were happy about the federation plan. Iraq would therefore vote for the federation plan recommended by the Ad Hoc Political Committee.

Accepting the federation plan, the representative of Ethiopia stated that his Government would do its best to implement it. Ethiopia, he said, accepted the necessary provisions for reassuring all indigenous and foreign minorities in Eritrea and would respect their rights and privileges. A similar statement was made by the representative of the United Kingdom.

The voting on the draft resolutions was as follows:

USSR draft resolution (A/1570): rejected, paragraph by paragraph, by votes ranging from 32 to 13 with 8 abstentions, to 38 to 5 with 14 abstentions

Polish draft resolution (A/1564 & Corr. 1): rejected, paragraph by paragraph, by votes ranging from 36 to 10 with 14 abstentions, to 37 to 5 with 13 abstentions

Draft resolution recommended by the Ad Hoc Political Committee (A/1561): voted on, paragraph by paragraph, and adopted by votes ranging from 48 to 2 with 7 abstentions, to 42 to 6 with 8 abstentions. The draft resolution as a whole was then put to the vote and adopted by 46 votes to 10 with 4 abstentions.

Before putting the second draft resolution (A/1561/Add.1) to the vote, the Chairman asked the Rapporteur of the Ad Hoc Political Committee whether it was intentionally provided that if members of the nominating committee failed to agree on one candidate, they should nominate three candidates or whether the committee could nominate either two or three candidates.

The Rapporteur of the Committee stated that he thought it was the intention of the Committee that, in the event of failure of the nominating committee to reach an agreement, the greatest latitude should be left in the matter of nominating a Commissioner for Eritrea. For that reason the number had been fixed at three. However, he explained, if it was the intention of the General Assembly that the choice be limited to two, or three, then it should be explicitly stated in the draft resolution. He therefore suggested that an amendment to that effect should be incorporated in the draft resolution. The amendment was adopted and the draft resolution, as amended, was adopted by 45 votes to 5, with 6 abstentions. The text of the two draft resolutions A and B (390(V)) adopted by the General Assembly follows:

A

Whereas by paragraph 3 of Annex XI to the Treaty of Peace with Italy, 1947, the Powers concerned have

agreed to accept the recommendation of the General Assembly on the disposal of the former Italian colonies in Africa and to take appropriate measures for giving effect to it,

Whereas by paragraph 2 of the aforesaid Annex XI such disposal is to be made in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of interested governments,

Now therefore

The General Assembly, in the light of the reports of, the United Nations Commission for Eritrea and of the Interim Committtee, and

Taking into consideration

(a) The wishes and welfare of the inhabitants of Eritrea, including the views of the various racial, religious and political groups of the provinces of the territory and the capacity of the people for self-government,

(b) The interests of peace and security in East Africa,

(c) The rights and claims of Ethiopia based on geographical, historical, ethnic or economic reasons, including in particular Ethiopia's legitimate need for adequate access to the sea,

Taking into account the importance of assuring the continuing collaboration of the foreign communities in the economic development of Eritrea,

Recognizing that the disposal of Eritrea should be based on its close political and economic association with Ethiopia, and

Desiring that this association assure to the inhabitants of Eritrea the fullest respect and safeguards for their institutions, traditions, religions and languages, as well as the widest possible measure of self-government, while at the same time respecting the Constitution, institutions, traditions and the international status and identity of the Empire of Ethiopia,

A. Recommends that:

1. Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown.

2. The Eritrean Government shall possess legislative, executive and judicial powers in the field of domestic affairs.

3. The jurisdiction of the Federal Government shall extend to the following matters: defence, foreign affairs, currency and finance, foreign and interstate commerce and external and interstate communications, including ports. The Federal Government shall have the power to maintain the integrity of the Federation, and shall have the right to impose uniform taxes throughout the Federation to meet the expenses of federal functions and services, it being understood that the assessment and the collection of such taxes in Eritrea are to be delegated to the Eritrean Government, and provided that Eritrea shall bear only its just and equitable share of these expenses. The jurisdiction of the Eritrean Government shall extend to all matters not vested in the Federal Government, including the power to maintain the internal police, to levy taxes to meet the expenses of domestic functions and services, and to adopt its own budget.

4. The area of the Federation shall constitute a single area for customs purposes, and there shall be no barriers to the free movement of goods and persons within the area. Customs duties on goods entering or leaving the Federation which have their final destination or origin in Eritrea shall be assigned to Eritrea.

5. An Imperial Federal Council composed of equal numbers of Ethiopian and Eritrean representatives shall meet at least once a year and shall advise upon the common affairs of the Federation referred to in paragraph 3 above. The citizens of Eritrea shall participate in the executive and judicial branches, and shall be represented in the legislative branch, of the Federal Government, in accordance with law and in the proportion that the population of Eritrea bears to the population of the Federation.

6. A single nationality shall prevail throughout the Federation:

(a) All inhabitants of Eritrea, except persons possessing foreign nationality, shall be nationals of the Federation;

(b) All inhabitants born in Eritrea and having at least one indigenous parent or grandparent shall also be nationals of the Federation. Such persons, if in possession of a foreign nationality, shall, within six months of the coming into force of the Eritrean Constitution, be free to opt to renounce the nationality of the Federation and retain such foreign nationality. In the event that they do not so opt, they shall thereupon lose such foreign nationality;

(c) The qualifications of persons acquiring the nationality of the Federation under sub-paragraphs (a) and (b) above for exercising their rights as citizens of Eritrea shall be determined by the Constitution and laws of Eritrea;

(d) All persons possessing foreign nationality who have resided in Eritrea for ten years prior to the date of the adoption of the present resolution shall have the right, without further requirements of residence, to apply for the nationality of the Federation in accordance with federal laws. Such persons who do not thus acquire the nationality of the Federation shall be permitted to reside in and engage in peaceful and lawful pursuits in Eritrea;

The rights and interests of foreign nationals resident in Eritrea shall be guaranteed in accordance with the provisions of paragraph 7.

7. The Federal Government, as well as Eritrea, shall ensure to residents in Eritrea, without distinction of nationality, race, sex, language or religion, the enjoyment of human rights and fundamental liberties, including the following:

(a) The right to equality before the law. No discrimination shall be made against foreign enterprises in existence in Eritrea engaged in industrial, commercial, agricultural, artisan, educational or charitable activities, nor against banking institutions and insurance companies operating in Eritrea;

(b) The right to life, liberty and security of person;

(c) The right to own and dispose of property. No one shall be deprived of property, including contractual rights, without due process of law and without payment of just and effective compensation;

(d) The right to freedom of opinion and expression and the right of adopting and practising any creed or religion;

(e) The right to education;

(f) The right to freedom of peaceful assembly and association;

(g) The right to inviolability of correspondence and domicile, subject to the requirements of the law;

(h) The right to exercise any profession subject to the requirements of the law;

(i) No one shall be subject to arrest or detention without an order of a competent authority, except in case of flagrant and serious violation of the law in force. No one shall be deported except in accordance with the law;

(j) The right to a fair and equitable trial, the right of petition to the Emperor and the right of appeal to the Emperor for commutation of death sentences;

(k) Retroactivity of penal law shall be excluded;

The respect for the rights and freedoms of others and the requirements of public order and the general welfare alone will justify any limitations to the above rights.

8. Paragraphs 1 to 7 inclusive of the present resolution shall constitute the Federal Act which shall be submitted to the Emperor of Ethiopia for ratification.

9. There shall be a transition period which shall not extend beyond 15 September 1952, during which the Eritrean Government will be organized and the Eritrean Constitution prepared and put into effect.

10. There shall be a United Nations Commissioner in Eritrea appointed by the General Assembly. The Commissioner will be assisted by experts appointed by the Secretary-General of the United Nations.

11. During the transition period, the present administering Power shall continue to conduct the affairs of Eritrea. It shall, in consultation with the United Nations Commissioner, prepare as rapidly as possible the organization of an Eritrean administration, induct Eritreans into all levels of the administration, and make arrangements for and convoke a representative assembly of Eritreans chosen by the people. It may, in agreement with the Commissioner, negotiate on behalf of the Eritreans a temporary customs union with Ethiopia to be put into effect as soon as practicable.

12. The United Nations Commissioner shall, in consultation with the administering Power, the Government of Ethiopia, and the inhabitants of Eritrea, prepare a draft of the Eritrean Constitution to be submitted to the Eritrean Assembly and shall advise and assist the Eritrean Assembly in its consideration of the Constitution. The Constitution of Eritrea shall be based on the principles of democratic government, shall include the guarantees contained in paragraph 7 of the Federal Act, shall be consistent with the provisions of the Federal Act and shall contain provisions adopting and ratifying the Federal Act on behalf of the people of Eritrea.

13. The Federal Act and the Constitution of Eritrea shall enter into effect following ratification of the Federal Act by the Emperor of Ethiopia, and following approval by the Commissioner, adoption by the Eritrean Assembly and ratification by the Emperor of Ethiopia of the Eritrean Constitution.

14. Arrangements shall be made by the Government of the United Kingdom of Great Britain and Northern Ireland as the administering Power for the transfer of power to the appropriate authorities. The transfer of power shall take place as soon as the Eritrean Constitution and the Federal Act enter into effect, in accordance with the provisions of paragraph 13 above.

15. The United Nations Commissioner shall maintain his headquarters in Eritrea until the transfer of power has been completed, and shall make appropriate reports to the General Assembly of the United Nations concerning the discharge of his functions. The Commissioner may consult with the Interim Committee of the General Assembly with respect to the discharge of his functions in the light of developments and within the terms of the present resolution. When the transfer of authority has been completed, he shall so report to the General Assembly and submit to it the text of the Eritrean Constitution;

B. Authorizes the Secretary-General, in accordance with established practice:

1. To arrange for the payment of an appropriate remuneration to the United Nations Commissioner;

2. To provide the United Nations Commissioner with such experts, staff and facilities as the Secretary-General may consider necessary to carry out the terms of the present resolution.

B

The General Assembly, to assist it in making the appointment of the United Nations Commissioner in Eritrea,

Decides that a Committee composed of the President of the General Assembly, two of the Vice-Presidents (Australia and Venezuela), the Chairman of the Fourth Committee and the Chairman of the Ad Hoc Political Committee shall nominate a candidate or, if no agreement can be reached, two or three candidates, for the post of United Nations Commissioner in Eritrea.

d. NOMINATION OF A COMMISSIONER FOR ERITREA

The Committee named in resolution 390 B (V) accordingly met on 12 December to consider the nomination of candidates for the office of the United Nations Commissioner in Eritrea. It reported (A/1715) on 13 December that it had agreed to nominate the following candidates: Victor Hoo (Assistant Secretary-General for the Department of Trusteeship and Information from Non-Self-Governing Territories); Aung Khine (Burma); Eduardo Anze Matienzo (Bolivia).

The General Assembly at its 325th plenary meeting on 14 December 1950, elected by secret ballot Mr. Anze Matienzo as United Nations Commissioner in Eritrea.

3. Procedure to Delimit the Boundaries of the Former Italian Colonies

By resolution 289 C (IV), adopted at its fourth session, the General Assembly referred to the Interim Committee the item concerning the study of procedure to delimit the boundaries of the former Italian colonies, in so far as they were not already fixed by international agreement. The Interim Committee decided, on 15 September, that in view of the short time available before the opening of the Assembly's fifth session it should

transmit to the General Assembly, without a recommendation, a draft resolution (A/AC.18/-118/Rev.2) submitted on the question, by the United States.[110] The report of the Interim Committee (A/1388) and the item concerning the delimitation of the boundaries of former Italian colonies was considered by the Ad Hoc Political Committee at its 81st meeting on 13 December 1950.

a. CONSIDERATION IN THE AD Hoc POLITICAL COMMITTEE

The Committee had before it a draft resolution (A/AC.38/L.78) by the United States which proposed:

(a) with respect to Libya, that the portion of its boundary with French territory not yet delimited by international agreement be delimited, upon Libya's achievement of independence, by negotiation between the Libyan and French Governments, assisted, upon the request of either party, by a third person to be selected by them, or, failing their agreement, to be appointed by the Secretary-General;

(b) with respect to the Trust Territory of Somaliland, that the portion of its boundaries with British Somaliland and Ethiopia not yet delimited by international agreement be delimited by bilateral negotiations. If either party to a bilateral negotiation so requested, a United Nations Mediator would be appointed by the Secretary-General and, if the Mediator's recommendations were not accepted, the parties should agree to a procedure of arbitration;

(c) with respect to any other boundaries not delimited by international agreement, that the parties concerned seek to reach agreement by negotiation or by arbitration.

On a motion by the representative of the Philippines, the Committee decided at the outset of the debate that in view of the simplicity of the United States proposal each speaker should be limited to five minutes and one speech.

The representative of France, while raising no objection to the draft resolution, invited the Committee to consider a special situation which, he said, existed on the borders of The Fezzan and Algeria in the region of Ghat and Serdeles. The population of that area, estimated at less than 3,000 persons, had repeatedly expressed a wish to be reunited with their racial kinsmen, the tribes of the neighbouring Djanet region of Algeria. He wished to inform the Committee that his Government reserved the right to settle that question in a friendly spirit by direct negotiation with the Libyan Government. It would follow the same procedure in solving all similar problems of boundary rectification which might arise in connexion with the former Italian colonies.

The representative of France also wished to correct a mistake which appeared to have crept into Section II, paragraph (c), sub-titled "South Eastern Frontier (with French West Africa and French Equatorial Africa)" of document A/AC.18/103 submitted to the Interim Committee by the Secretariat on the "Study of procedure to delimit the boundaries of the former Italian colonies". The agreement to which that paragraph referred had never come into force. In those circumstances reference should be made to previous provisions fixing that section of the boundary which, he stated, were contained in the Franco-Italian Agreement of 1 November 1902.

The representatives of Egypt and the United Kingdom agreed with the provisions of the United States draft resolution.

The representative of the USSR objected to the reference in the United States draft resolution to the Interim Committee and to the Memorandum submitted to it by the Secretariat on the ground that the Interim Committee was considered illegal by some delegations including his own. He further maintained that the United Nations was not competent to deal with the delimitation of the boundaries of the former Italian colonies, which was a matter within the exclusive competence of the four Powers signatories to the Treaty of Peace with Italy.

He recalled that Annex XI, paragraph 2, of that Treaty provided that the fate of the territories in question and the appropriate delimitation of their boundaries should be settled by the four Powers. Paragraph 3 of the Annex provided only that the matter should be referred to the General Assembly if there was no agreement between the Powers over the fate of the colonies. It made no reference whatever to delimitation of boundaries. Consequently, the representative of the USSR argued, the Assembly's consideration of this question constituted a violation of the Italian Peace Treaty. Moreover, he stated, the General Assembly's deliberations had revealed a bargain concluded between the Administering Powers at the expense of the inhabitants of the various territories. For those reasons, he said, he would vote against any draft resolution dealing with the delimitation of the former Italian colonies.

The United States draft resolution was then put to the vote and adopted by 35 votes to 5, with one abstention.

[110] See p. 408.

b. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The resolution recommended by the Ad Hoc Political Committee (A/1723), was considered by the General Assembly at its 326th plenary meeting on 15 December 1950, and was adopted without debate by 44 votes to 5.

Explaining his vote, the representative of the USSR reiterated the point of view he had expressed before the Ad Hoc Political Committee.

The text of the resolution (392(V)) adopted by the General Assembly follows:

The General Assembly,

In accordance with its resolution 289 C (IV) adopted on 21 November 1949, in which the General Assembly called upon the Interim Committee "to study the procedure to be adopted to delimit the boundaries of the former Italian colonies in so far as they are not already fixed by international agreement, and report with conclusions to the fifth regular session of the General Assembly",

Having taken note of the memorandum, prepared at the Interim Committee's request by the Secretariat, giving information relating to the boundaries of the former Italian colonies not already fixed by international agreement, and having taken into consideration the views of the interested governments,

1. Recommends:

(a) With respect to Libya,

That the portion of its boundary with French territory not already delimited by international agreement be delimited, upon Libya's achievement of independence, by negotiation between the Libyan and French Governments, assisted on the request of either party by a third person to be selected by them or, failing their agreement, to be appointed by the Secretary-General;

(b) With respect to the Trust Territory of Somaliland,

That the portion of its boundaries with British Somaliland, as well as with Ethiopia, not already delimited by international agreement be delimited by bilateral negotiations between the United Kingdom Government and the Administering Authority, in respect of the boundaries with British Somaliland, and between the Ethiopian Government and the Administering Authority in respect of the boundaries with Ethiopia;

In order to resolve any and all differences arising in the course of such negotiations, the respective parties to each bilateral negotiation agree, on the request of either party, to a procedure of mediation by a United Nations Mediator to be appointed by the Secretary-General and, further, in the event of the inability of the parties to accept the recommendations of the Mediator, to a procedure of arbitration;

2. Recommends, further, that, with respect to any other boundaries not delimited by international agreement, the parties concerned seek to reach agreement by negotiation or by arbitration.

4. Adjustment of the Frontiers between Egypt and Libya

The item "The appropriate adjustment of the frontiers between Egypt and the former Italian colony of Libya, with particular reference to paragraphs 2 and 3 of Annex XI of the Treaty of Peace with Italy" was placed on the agenda of the fifth session of the General Assembly by Egypt. It was considered by the Ad Hoc Political Committee on 13 December 1950 at its 80th meeting, when the representative of Egypt stated that the adjustment of frontiers between the two countries had become necessary as a result of the detachment from Egypt of certain strips of territory which had now become incorporated in Libya.

Outlining the background to the question, the representative of Egypt stated that the Egyptian Government had ceded the oasis of Djarabub to Italy in 1925 in exceptional circumstances when Italy had been one of the principal Allied Powers in the First World War and had claimed certain African territories as compensation for its war effort. The oasis had been promised to Italy by the United Kingdom under the Milner-Scialoja Agreement. The promise, it was stated, was devoid of any sound basis inasmuch as it deprived a third State of part of its territory without its consent. The Egyptian Government had ceded the territory to Italy under pressure from the United Kingdom. Egypt had also ceded part of the Sollum plateau which was important for the defence of Egypt. The Egyptian people continue to regard that cession as unjust. Egypt's territorial claim, it was stated, was small and could not be detrimental to Libya. The representative of Egypt therefore requested that the item should be retained on the Assembly's agenda for discussion at the sixth session.

The Committee, at the suggestion of the Chairman, agreed to the Egyptian request, and recommended that the Assembly should retain the item on its agenda for the sixth session.

The report of the Ad Hoc Political Committee (A/1720) containing its recommendation was considered by the General Assembly at its 325th plenary meeting on 14 December 1950 when the Assembly unanimously adopted resolution 391 (V) as follows:

The General Assembly,

Decides to defer to its sixth session consideration of item 59 of the agenda of its fifth session, entitled "The appropriate adjustment of the frontiers between Egypt and the former Italian colony of Libya, with particular reference to paragraphs 2 and 3 of Annex XI of the Treaty of Peace with Italy".

H. THREATS TO THE POLITICAL INDEPENDENCE AND TERRITORIAL INTEGRITY OF GREECE[111]

1. Reports before the General Assembly

In its consideration of this agenda item, the General Assembly, at its fifth session, had before it reports from the United Nations Special Committee on the Balkans (A/1307; A/1423 & Add.1; A/1438/Add.1), a resolution from the Executive Committee of Red Cross Societies (A/1257) and a report from the Secretary-General (A/1480).

The United Nations Special Committee on the Balkans (UNSCOB), which had been established at the second session of the General Assembly and continued in being through the third and fourth sessions, submitted a report (A/1307) on 31 July 1950, covering the period from September 1949 to July 1950. On 8 September and 12 October, it also submitted supplementary reports (A/1423 & Add.1; A/1438/Add.1) on subsequent events.

The Special Committee stated in its main report (A/1307) that in accordance with General Assembly resolution 288(IV) of 18 November 1949, it had endeavoured to promote normal diplomatic and good neighbourly relations between Albania, Bulgaria and Yugoslavia on the one hand and Greece on the other. The Government of Greece had continued, as before, to co-operate with the Special Committee, but Albania, Bulgaria and Yugoslavia had refused co-operation and recognition. Diplomatic relations between Yugoslavia and Greece, however, existed, the Committee stated, and an agreement had been reached between the two Governments on 21 May 1950 for an exchange of Ministers. The Committee also noted official statements on the part of both these Governments in April and May 1950, referring to definite steps towards re-establishment of normal relations. Another satisfactory development had been the proposals put forward by the Yugoslav Government, on behalf of the Yugoslav Red Cross, for implementing the Assembly resolution 288 B (IV) on the repatriation of Greek children.

Greek army operations in 1949 had eliminated large-scale guerrilla activity along the northern borders of Greece, but guerrilla leaders had not abandoned their aims and the remnants of the movement within Greece had not been dissolved. Nor, the report continued, had the disarming and disposition of thousands of guerrillas who had fled beyond the northern frontiers been verified through an international agency.

The Committee found that Yugoslavia had maintained its policy, announced in July 1949, of closing its frontier with Greece, and frontier relations between the two countries had been correct. But, the Committee observed, Bulgaria, in particular, had continued to give moral and material assistance to guerrilla raiders and saboteurs operating on the Greek border. The chief potential threat to the political independence and territorial integrity of Greece, according to the Committee, was now to be found in Bulgaria.

The Committee expressed the gravest concern that no Greek children had yet been repatriated to their homes in Greece, and that the General Assembly resolutions calling for the repatriation of the children removed from Greece during the guerrilla warfare had had no practical results, despite the untiring efforts of the Secretary-General and the international Red Cross organizations. Similarly, the Committee reported, no success had been achieved in the repatriation of Greek nationals and of captured Greek military personnel at present in countries to the north of Greece. In contravention of international practice, lists of detained Greek soldiers had not been circulated by the Governments concerned despite repeated requests from the Greek Government. The Special Committee considered that the vigilance of the United Nations with respect to Greece had been and remained a significant factor in maintaining peace in that region. Prerequisites for the re-establishment of normal relations between the four Governments were, the Committee considered, as follows: international verification of the disarming and disposition of Greek guerrillas outside Greece; repatriation of Greek children; repatriation of detained Greek soldiers and other Greek nationals; and conclusion of conventions for the regulation and control of the common frontiers between Greece and its northern neighbours.

The Special Committee, therefore, recommended:

(i) that the Assembly take note of the assistance given to the Greek guerillas by Albania and in particular by Bulgaria, in disregard of the Assembly's recommendations, as being contrary to the purposes and principles of the Charter, and endangering peace in the Balkans;
(ii) that the Assembly call upon all Member and non-Member States, and especially Albania and Bulgaria, to

[111] For previous consideration of this question, see Y.U.N., 1946-47, pp. 336-38; 1947-48, pp. 14, 63-75, 298-302, 337-52; 1948-49, pp. 238-56. See also pp. 436-37.

do nothing which would encourage or permit a renewal of armed action against Greece;

(iii) that the Assembly once more call upon Albania, Bulgaria and Greece to establish diplomatic relations and to renew previously operative frontier conventions or conclude new ones providing effective machinery for the regulation and control of their common frontiers and for the peaceful adjustments of frontier incidents along the lines suggested by the Special Committee;

(iv) that the Assembly call upon all States and in particular Albania and Bulgaria, to permit international verification of the disarming and disposition of the Greek guerillas who had entered their respective territories;

(v) that the Assembly again recommend to all Member and non-Member States: to refrain from direct or indirect provision of arms or materials of war to Albania and Bulgaria until the Special Committee or another competent United Nations organ determined that the unlawful assistance of these States to the Greek guerillas had ceased, and to take into account, in their relations with Albania and Bulgaria, the extent to which those two countries henceforth abided by the recommendations of the General Assembly in their relations with Greece;

(vi) that the Assembly call upon Albania, Bulgaria and Yugoslavia and all other States harbouring or detaining Greek nationals, as a result of the guerilla operations against Greece, to facilitate the peaceful repatriation to Greece of all such individuals who desire to return;

(vii) that the General Assembly in a humanitarian spirit, detached from political or ideological considerations, make every effort to find means of restoring Greek children to their homes;

(viii) that the Assembly consider the advisability of maintaining an appropriate United Nations agency on the Balkans, in the light of the current international situation and of conditions prevailing along the northern frontiers of Greece.

One of the Committee's supplementary reports (A/1438/Add.1) related to incidents occurring at the Greek-Bulgarian frontier since 14 September 1950. The other (A/1423 & Add.1) dealt with the testimony of a guerrilla who had surrendered to the Greek Army. This person stated that he had crossed, with a band of twenty guerrillas, into Greece from Albania. After killing, for personal reasons, a guerrilla leader, he had surrendered to the Greek Army and led them to the body of the guerrilla leader he had killed. On the body of the guerrilla leader had been found certain articles of allegedly Polish manufacture and a hand grenade with Polish markings. According to the witness, Greek guerrillas, including himself, had been transported to Poland from Albania and, after training, were being sent back to Greece for subversive activities. The witness also testified to the presence of Greek children in Poland.

The resolution of the Executive Committee of Red Cross Societies (A/1257) referred to the efforts made by the International Committee of the Red Cross and the League of Red Cross Societies for the repatriation of Greek children, which included:

(a) verification of satisfactory conditions under which the children would be received upon their return to Greece;

(b) preparation of lists in Latin and Greek characters of the names of claimed children and dispatch of those lists to the national Societies of the countries concerned, to be used by them in the identification of children;

(c) requests to national Societies of the receiving countries to prepare lists of Greek children in their respective countries so that they might be checked against requests from parents;

(d) offers of assistance to the national Societies of the receiving countries in preparing and checking lists of Greek children in their respective territories;

(e) missions to Czechoslovakia, Yugoslavia and Bulgaria, to discuss with national Societies and the Governments concerned the speedy repatriation of Greek children and offers to send similar missions to Hungary and Romania;

(f) invitations to the national Societies of all countries concerned to meet in Geneva on 9 and 10 March 1950, to discuss means for repatriation, to which only the Greek Red Cross responded by sending delegates.

The Executive Committee reported that, despite those efforts, no Greek child had, so far, been returned and that even "elementary indications indispensable for the solution of the problem have not been furnished by the Governments concerned".

It therefore drew the attention of the United Nations to the fact that without "a greater sense of social responsibility on the part of the Governments concerned", the Red Cross could not fulfil the task passed on to it. It, nevertheless, affirmed the determination of the Red Cross organizations concerned to proceed with the task which they had accepted.

The report of the Secretary-General (A/1480) stated that before the close of the fourth session of the General Assembly, he had brought resolution 288 B (IV) officially to the attention of the Governments of Albania, Bulgaria, Czechoslovakia, Greece, Hungary, Poland, Romania and Yugoslavia. Having received a communication from the Greek Government stating that a number of Greek children appeared to have been transferred to Eastern Germany, he also forwarded a copy of the resolution to the Chairman of the Soviet Control Commission in Berlin.

In January 1950 he held conversations at Lake Success with the representatives of Czechoslovakia, Poland and Yugoslavia on the matter. After a further meeting in February with the representative of Czechoslovakia, a visa was granted to a representative of the International Red Cross to visit Prague and, with his assistance, conditions were formulated and agreed upon by Greece under

which 138 children in Czechoslovakia would be returned to Greece.

When he was in Geneva at the beginning of May, the Secretary-General consulted with officials of the International Red Cross about future steps and made personal representations to certain governments communicating to them the world-wide anxiety felt on this issue.

In June, the Secretary-General invited representatives from the Governments of Bulgaria, Czechoslovakia, Hungary, Romania and the German Democratic Republic to a meeting in Geneva. The invitation was accepted by Yugoslavia; Czechoslovakia expressed its inability to nominate a representative at that time and the other Governments failed to reply. The meeting, therefore, did not take place.

On June 23, the report stated, an agreement was reached between the Greek and Yugoslav Governments regarding methods to be adopted in repatriating Greek children from Yugoslavia, and arrangements were being made to repatriate a group of 63 children. Yugoslavia had already sent sixteen children to their parents, who had emigrated to Australia. The Yugoslav Red Cross, it was further stated, had sent to the International Red Cross seven lists containing names of 2,512 Greek children resident in other countries of eastern and southeastern Europe who were claimed by their parents in Yugoslavia. This list had been communicated to the Red Cross Societies of the countries concerned.

The Secretary-General also stated that he had been in frequent contact with the Greek Government throughout the year and had received communications suggesting that considerable numbers of Greek children were recently in Poland and Eastern Germany. An earlier communication, he stated, referred to information suggesting that Greek children were in the territory of the Soviet Union.

The report also mentioned a resolution, transmitted to the Secretary-General by the Board of Governors of the League of Red Cross Societies, which requested the General Assembly, "in a spirit of humanitarianism, detached from all political or ideological considerations, to make every effort possible to find a means of repatriating Greek children".

A letter from the International Committee of the Red Cross and the League of Red Cross Societies, appended to the Secretary-General's report stated, inter alia, that:

(i) they had been able to send joint missions to Bulgaria, Czechoslovakia, Greece and Yugoslavia, but had not succeeded in obtaining permission for their representatives to visit Hungary and Romania;

(ii) since August 1949, they had transmitted to the Red Cross of the "reception countries" four lists of claimed children, comprising approximately 9,300 names in all, a figure substantially lower than the 28,000 which had been quoted as the total number of displaced children. The Czechoslovak Red Cross identified 138 names in the first of the four lists. The Yugoslav Red Cross identified 63.

The two organizations regretted that more substantial practical results had not been achieved and felt that it was now impossible for them to proceed further with the general execution of their mission through the channels open to them. The Secretary-General's report also contained, as an annex, a chronological summary, by country, of the negotiations undertaken for the repatriation of Greek children.

The Secretary-General concluded by stating that up to the moment of writing, not a single Greek child had been returned to his native land and that, except for Yugoslavia, no country harbouring Greek children had taken steps to implement the General Assembly resolutions. He urged the Assembly to take a "most serious view of this situation" and drew the attention of the Assembly to the statement of the Red Cross organizations to the effect that they would be obliged to relinquish their mission in the face of continued lack of co-operation from the States concerned. He hoped that this co-operation "may yet be forthcoming".

2. Consideration in the First Committee

The General Assembly, at its 285th plenary meeting on 26 September, referred the Greek question to the First Committee, which considered it at its 346th and 392nd to 398th meetings, 10-15 November 1950.

Five draft resolutions were submitted: one by Greece (A/C.1/620); one by Australia, France, Pakistan, the United Kingdom and the United States (A/C.1/622/Rev.1); two by the USSR (A/C.1/559, A/C.1/623); and one by Australia, Denmark, France and the Netherlands (A/C.1/627). To the last-mentioned draft resolution the USSR submitted amendments (A/C.1/628).

a. REPEAL OF DEATH SENTENCES

The Committee first voted on the first USSR draft resolution (A/C.1/559). This proposed that the Committee should request the President of the General Assembly to enter into negotiations with the representatives of the Greek Government

concerning the repeal of death sentences passed by military courts in Athens on Greek patriots, including eleven patriots named in a letter from their mothers and eight trade union officials named in a memorandum dated 16 September 1950 from the various relatives of those officials (A/C.1/-516).

Introducing his draft resolution, the representative of the USSR stated that more than 2,800 political prisoners were living under the sentence of death in Greece and that 59 new death sentences had been pronounced in August 1950. He appealed to the Committee to consider the question of death sentences from a humanitarian point of view.

In reply, the representative of Greece stated that there had been no executions in Greece since 1 October 1949. The eighteen persons on whose behalf the USSR had intervened were hardened criminals, expert in subversive activities and guilty of high treason. The Greek delegation, he stated, could have invoked the Charter provision concerning national sovereignty but it had preferred a frank explanation. He requested an immediate vote on the USSR draft resolution in order to clear the ground for more important discussions. Moreover, he stated, it would be contrary to the Charter for the Committee to open a debate on the internal affairs of Greece.

The request of the representative of Greece for immediate voting on the USSR draft resolution was supported by the representatives of Turkey and Australia, who also opposed the USSR draft resolution on the ground that it constituted an intervention in the internal affairs of Greece. In this connexion, the representative of Australia drew attention to what he called a contradiction between the USSR's insistence on discussing the domestic affairs of Greece and its opposition to the debate on the violation of human rights in Bulgaria, Hungary and Romania.

The representative of the USSR, supported by the representatives of Poland and the Ukrainian SSR, opposed the immediate voting on the USSR draft. He characterized as "inaccurate" the statement of the representative of Australia that the resolution would constitute an intervention in the internal affairs of Greece. "The truth was", he stated, "that the troubles on the Greek frontier were the results of a domestic situation due to the policy of a reactionary government receiving military, economic and political support from the United States. To put an end to the tension in the Balkans, the terror in Greece should be stopped".

After a motion by the representative of Greece for the closure of the debate had been adopted by 28 votes to 6, with 16 abstentions, the representative of the Ukrainian SSR moved suspension of the meeting. This motion was rejected by 32 votes to 8, with 12 abstentions.

The USSR draft resolution was then put to the vote and rejected by 31 votes to 6, with 12 abstentions.

b. REPORT OF UNSCOB

The report of the Special Committee (A/1307) was considered next, the debate in the First Committee centering on three draft resolutions:

(i) Draft resolution, submitted by Greece (A/C.l/620), which would have the Assembly: 'recommend the repatriation of all members of the Greek armed forces captured by the Greek guerillas and taken into countries north of Greece, who expressed the wish to be repatriated; call upon the States concerned to implement the resolution; and instruct the Secretary-General to request the International Committee of the Red Cross and the League of Red Cross Societies to ensure liaison with the national Red Cross organizations of the States concerned with a view to implementing the resolution

(ii) Joint draft resolution by Australia, France, Pakistan, the United Kingdom and the United States (A/C.1/622/Rev.l), which would have the Assembly: approve the report of the Special Committee on the Balkans; continue the Special Committee in being until the sixth session of the General Assembly, in accordance with resolutions 109(II), 193(III) and 288(IV), unless meanwhile the Special Committee should recommend to the Interim Committee its own dissolution; and authorize the Interim Committee to act on such a recommendation as it might think proper

(iii) Draft resolution, submitted (at the 393rd meeting) by the USSR (A/C.1/623), which would have the Assembly recommend: the declaration of a general amnesty in Greece and the abolition of the concentration camps for Greek democrats; the holding of free parliamentary elections on the basis of proportional representation; the cessation of military and political intervention in Greek affairs by the United States and the United Kingdom; the establishment of diplomatic relations between Greece and Albania and between Greece and Bulgaria; and the dissolution of the United Nations Special Committee on the Balkans

Speaking on the joint draft resolution (A/C.l/-622/Rev.l), the representatives of Australia, France, Pakistan, the United Kingdom and the United States stated that, owing to the effort of the Greek army, the desire of the Greek people to defend their independence, the help rendered by the United States and other Member States and the work of the Special Committee, large-scale guerrilla activities had come to an end. However, as the report of the Special Committee showed, the menace to that country's independence still existed.

The guerrillas had, it was stated, left Greece but had not been disarmed; their broadcasting sta-

tion in a neighbouring country still functioned and Albania and Bulgaria continued to give them moral and material assistance. Moreover, except for the helpful attitude of Yugoslavia there had been no other indication of progress in the repatriation of Greek children. These representatives, therefore, supported the joint draft resolution, urged the Assembly to approve the Special Committee's report and stressed the necessity for continuing it for another year. Depending on the situation, it was suggested, the Special Committee could either recommend its own dissolution to the Interim Committee or it might recommend some changes in its functions or the transfer of them to some other United Nations agency.

The representative of the United States, supported by the representative of Australia, suggested, as an alternative, that, even if the Special Committee recommended its own dissolution, the Interim Committee should be able to arrange the continuation of its observation functions in a limited way with the observers in the area still reporting to the Peace Observation Commission, instead of to the Special Committee, in accordance with the resolution "Uniting for Peace".[112] These representatives also supported the Greek draft resolution (A/C.1/620) on the repatriation of Greek soldiers.

The representative of Greece stated that the main problem of the Greek question still remained the same as in previous years, namely, the continuing aid given to subversive elements by Greece's northern neighbours, their territory being used freely by these elements as their base of operations. The two factors which had greatly helped in improving the situation in Greece, the representative of Greece observed, were the complete defeat of the guerrillas at the hands of the Greek army and the closure of its frontiers to the partisans by Yugoslavia. This last factor showed that with similar co-operation from other States the question of suppressing the guerrillas would have been solved easily. The representative of Greece observed that, after suffering a defeat in Greece, approximately 15,000 guerrillas had reached Albania and, later, had been transported to Bulgaria, leaving approximately 1,500 in Albania. He estimated the number of "combatants" in the neighbouring countries of Greece and in certain other countries at 15,000. They had been transported to Poland and, after being re-equipped, were being sent back to Bulgaria, where Bulgarian officers had been ordered to receive them, the representative of Greece charged. Thus, in disregard of previous Assembly resolutions, certain countries had been preparing another threat to the independence of Greece. He therefore supported the joint five-Power draft resolution. The joint draft resolution was also supported by the representatives of Belgium, Brazil, El Salvador, Israel and Turkey.

Referring to his own draft resolution for the repatriation of Greek soldiers, the representative of Greece stated that the Legal Department of the United Nations Secretariat, when consulted by the Special Committee, had given the opinion that Greece's neighbours were under international obligation to repatriate these captured soldiers. In spite of this and in disregard of General Assembly resolution 288 B (IV) adopted at the previous session, Greece's neighbours, with the exception of Yugoslavia, were still detaining them. He therefore urged the adoption of his draft resolution.

Opposition to the joint draft resolution was voiced by the representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR. These representatives held the view that the report of the Special Committee, the testimony collected by it and its recommendations were based on "falsehoods and distortion of facts". The report had been made, it was contended, in a spirit of partiality and bad faith, and the witnesses who had been used were "deserters, informers, agents provocateurs and renegades". The Special Committee, by acting as the "instrument" of the ruling circles of the United Kingdom and the United States, by endorsing the Greek Government's policies and by its hostility to Albania and Bulgaria, had not contributed to a solution of the Greek problem, but had only delayed the establishment of friendly relations between the countries concerned.

With regard to the establishment of diplomatic relations and conclusion of frontier conventions, it was held by these representatives that it was Greece which was waiting for an opportunity to take possession of northern Epirus. For an improvement of relations between these countries, it was necessary that Greece first recognize as final its existing frontiers with Albania.

The object of continuing the Special Committee, it was stated, was, as it had been in the past, to conduct espionage against Albania and Bulgaria by means of its observers. That was why the representative of the United States had desired the retention of observers even after the dissolution of the Committee.

Analysing the testimony of certain witnesses, the representative of Poland referred to the testi-

[112] For text, see pp. 193-95.

mony of a witness who had stated (A/1423) that there were Greek guerrillas and children in Poland and who had said that he had been abducted by the guerrillas in 1947 and, desiring to return to Greece, had escaped to Albania, proceeded by boat to Poland and had made his way back to Greece. This, the representative of Poland commented, was apparently the "shortest route". This testimony, although inconsistent, had been accepted, despite the fact that he was a "confessed murderer". The hand-grenade of allegedly Polish manufacture found upon "a captured guerrilla" contained markings which included the letter Q—a letter which did not exist in the Polish alphabet.

The presence of Greek guerrillas in Albania and Bulgaria was never denied, it was said by the representatives opposing the joint draft resolution, but they had been disarmed. These representatives maintained that only an amnesty, as proposed in the USSR draft resolution, could ease the tension in the Balkans. The representative of the USSR said that in the First Committee the representative of Greece had expressed himself in confused terms and had been unable to submit any authentic evidence in support of his charges concerning the question of repatriation of members of the Greek armed forces captured by Greek guerrillas and transported into neighbouring countries. The summary record of the meeting of 19 June 1950 showed that the Special Committee had estimated that number as being approximately 106. However, in the same meeting, the Greek Government had given the approximate number of the members of the Greek armed forces that had been taken prisoners by the partisans since 1946 as 1,713. As evidence for that statement, there existed only the summary record of that meeting of the Special Committee and several letters from the Greek Government. In the circumstances, the First Committee could not adopt a proposal as biased and unfounded as the Greek draft resolution.

In reply, the representative of Greece stated that Greece had never harboured expansionist views. It had respected the Paris Peace Treaty of 1947 with Bulgaria, but the latter had pursued an aggressive policy both before and after the conclusion of the Treaty. Similarly, Greece had accepted the proposals of the United Nations Conciliation Commission (A/1062), but Bulgaria had rejected them, demanding in its turn that the partisans should be allowed the right of belligerency, and making other demands such as declaration of amnesty, holding of elections with the participation of the USSR—demands similar to those proposed by the USSR. It was thus clear that the USSR wanted to interfere in the domestic affairs of Greece through its "protégés". It wanted to eliminate UNSCOB so as to have its hands free.

As to the repatriation of members of the Greek armed forces, the representative of Greece said that it was not essential to produce documents to justify support of a draft resolution based on principles of justice and humanity. However, he pointed out that, early in 1949, the Tirana wireless station had officially announced that 227 Greek soldiers, prisoners of the partisans, had arrived in Albania. The Greek Government possessed 250 letters received from prisoners of war in Albania, and it was prepared to communicate the contents of those letters either to the competent Committee or to the Secretary-General.

At the 396th meeting of the Committee on 14 November 1950 the Greek draft resolution (A/C.1/620) was adopted by 53 votes to 5, with 1 abstention. The five-Power joint draft resolution (A/C.1/622/Rev.1) was adopted by 52 votes to 6, with no abstentions. The USSR draft resolution (A/C.1/623) was rejected by 51 votes to 5, with 2 abstentions.

c. REPATRIATION OF GREEK CHILDREN

Finally the Committee considered the report of the Secretary-General on the repatriation of Greek children (A/1480/Add.1) and a joint draft resolution presented by Australia, Denmark, France and the Netherlands (A/C.1/627), which would have the Assembly request the Secretary-General, the International Committee of the Red Cross and the League of Red Cross Societies to continue their efforts in accordance with the Assembly resolutions 193 C (III) and 288 B (IV), concerning the repatriation of Greek children; urge all States harbouring the Greek children to arrange for the early repatriation of those children to their parents and to allow the international Red Cross organizations engaged in this task free access to their territories whenever necessary. The draft resolution further sought to establish a Standing Committee to act in consultation with the Secretary-General and to consult with the representatives of the States concerned, with a view to the early repatriation of children. The draft resolution proposed that the International Red Cross and the League of Red Cross Societies be asked to cooperate with this Standing Committee and that the Secretary-General be requested to report to Member States from time to time on the progress made. The Secretary-General and the Red Cross organizations should also, it was proposed, be

asked to submit reports to the sixth session of the General Assembly.

The USSR submitted amendments (A/C.1/628) to the four-Power draft resolution (A/C.1/627) which proposed, inter alia, the deletion of the provision for the free access of Red Cross organizations into the territories of the States concerned and the substitution for that provision of the words "in accordance with the resolutions referred to above". They further proposed deletion of the last two paragraphs relating to the establishment of a standing committee.

On behalf of the sponsors of the four-Power draft resolution, Australia proposed that the Standing Committee provided for in the draft resolution (A/C.1/627) should be composed of the representatives of Peru, the Philippines and Sweden. Introducing the joint draft resolution, the representative of Australia stated that, in considering the question, the First Committee should bear in mind the fundamental right and need of the child to be with his parents and in the atmosphere of his own home. He referred to Yugoslavia's effort to repatriate a number of children and to the fact that other countries harbouring Greek children had, in principle, agreed to their repatriation. Obstacles to repatriation were the denials of some Governments that any children had remained in their territories. Yet there was strong evidence to the contrary. These Governments had delayed replies to Red Cross inquiries, had refused to send representatives to Red Cross conferences and had denied visas to Red Cross representatives wishing to visit their countries. He appealed to these Governments to assist the Red Cross in checking their lists against the master list. Explaining the proposal to establish a Standing Committee, the representative of Australia said that unless the Red Cross was aided in its task it might be obliged to relinquish its efforts. The Standing Committee would on the one hand help the International Red Cross in its dealings with the Governments, and on the other, help the Secretary-General in his dealings with the Governments concerned and the Red Cross. The representatives of Denmark and France associated themselves with the remarks made by the representative of Australia.

The representative of Greece stated that Bulgaria had not submitted the lists of children requested by the Secretary-General, nor sent delegates to the Red Cross conference arranged in March 1950. The Romanian Red Cross had not provided any lists and both Romania and Hungary had refused entry to the representatives of the International Red Cross. The Hungarian Red Cross had even stated that conditions in Greece were not favourable to the return of children. Czechoslovakia, while announcing the identification of 138 children, had made their repatriation subject to certain arbitrary conditions not provided for in the Assembly resolutions of 1948 and 1949. These conditions had been accepted but, owing to "red tape", no children had yet been returned to Greece. The Polish Red Cross had denied the presence of Greek children in Poland but Greece knew that this assertion was false. Albania had stated that all children passing through Albania had left, but it was difficult to trust countries which had shown no spirit of compromise. Moreover there were Greek children in Eastern Germany and the USSR.

Referring to difficulties involved in repatriation of children, the representative of Yugoslavia stated that a large number of children had fled their country with their parents. Thus eight ninths of the refugee Greek children in Yugoslavia were living with their parents. Parents of other children were scattered in different countries. There were, he stated, more than 2,000 Greek children in Poland, Czechoslovakia, Hungary, Romania, Albania and even Greece whose parents were in Yugoslavia. The children in Yugoslavia were living in Red Cross homes and were receiving the greatest care. They were attending schools and were receiving education in their own language. It was admitted that such care could not replace the love of parents. While stipulating certain guarantees, the Yugoslav Red Cross had made every effort to carry out the Assembly resolutions. The representative of Yugoslavia further stated that there were errors in the lists submitted by the Red Cross and also difficulties of identification. Also, the political atmosphere was not such as to preclude the possibility of the misuse of lists of children published by the country of asylum. The main problem, however, could not be solved until Greek children outside Yugoslavia had been restored to their parents in Yugoslavia, and the Yugoslav children who were outside their country since the war were returned to Yugoslavia.

Statements in support of the joint draft resolution were also made by the representatives of Chile, Costa Rica, the Dominican Republic, Syria, the United Kingdom, the Union of South Africa and the United States.

The representative of Syria, however, suggested that instead of increasing the number of subsidiary bodies of the Assembly by creating a Standing Committee, the Special Committee itself might be instructed to act in consultation with the Secre-

tary-General and to consult with the representatives of other countries.

The representative of Czechoslovakia stated that, contrary to the statement in the Secretary-General's report which was repeated in the joint draft resolution, representatives of the International Red Cross had repeatedly entered Czechoslovakia. The delay in repatriation, however, was due to lack of evidence about the authenticity of lists and related documents. Most of the parents were not living in Greece. There was no evidence that the requests had not been made under pressure. It was essential to ascertain that there was no deceit.

Submitting his amendments, the representative of the Soviet Union said that in spite of the talk of humanitarianism, what awaited the Greek children on their repatriation to Greece were children's jails and camps. The Greek Government and the Greek Red Cross were preparing to receive children whose parents were in jails and concentration camps. There could be, he stated, no question of repatriating such children. As regards the proposed Standing Committee, the representative of the Soviet Union stated that "a new superstructure of organs and Committees" would not solve the problem. The main obstacles were the internal situation in Greece, and the method and spirit in which the lists were compiled.

The representative of Poland gave specific instances of intimidation of parents by Greek authorities in the area of Kastoria in order to obtain signatures to requests for repatriation. He also gave instances of "falsifications" of lists compiled by the Greek Red Cross.

The representative of Belgium stated that the USSR and the "countries called 'satellites' " had introduced purely political considerations into the problem. To reject lists of 28,000 children on grounds of inaccuracy and errors was nothing but obstruction, he charged. He urged the immediate settlement of at least undisputed cases.

The representative of Greece said that the Czechoslovak Government had admitted that there were 134 children who satisfied the terms of repatriation. The Greek Government wished to restore children to their parents and not to camps as had been alleged. The Yugoslav attitude, he said, had shown that co-operation was possible. The Greek Government was willing to discuss the question and all that was needed was a little goodwill.

At its 398th meeting on 15 November, the Committee voted on the joint draft resolution (A/C.1/627) and the USSR amendments (A/C.1/628). The amendment deleting the first paragraph of the preamble was rejected by 43 votes to 5, with 5 abstentions. The amendment to the second operative paragraph was rejected by 46 votes to 5, with 7 abstentions. The amendment deleting the third and fourth operative paragraphs was rejected by 44 votes to 5, with 8 abstentions. The four-Power draft resolution was voted on by paragraphs and was adopted as a whole by 53 votes to none with 5 abstentions.

3. Resolutions Adopted by the General Assembly

The report of the First Committee (A/1536) containing three draft resolutions A, B and C recommended by it, was presented to the General Assembly at its 313th plenary meeting on 1 December 1950. (Draft resolution A related to the repatriation of Greek military personnel; draft resolution B recommended the approval of the Special Committee's report and the extension of the Special Committee's term for another year; and draft resolution C related to the repatriation of Greek children.)

The USSR reintroduced its two draft resolutions which had been rejected by the First Committee: (i) (A/1569) recommending the repeal of death sentences on 18 Greek nationals and (ii) (A/1560) recommending general amnesty and certain other measures to be taken by Greece and dissolution of the Special Committee. The USSR also reintroduced the amendments (A/1568) to draft resolution C which had been rejected by the First Committee (see above).

The Assembly decided not to reopen a debate.

Statements in explanation of their votes which were made by the representatives of the Byelorussian SSR, Czechoslovakia, Poland, Ukrainian SSR and the USSR reflected the views expressed by these representatives in the Committee debates. Explanations of their votes (supporting the draft resolutions recommended by the First Committee) were also made by the representatives of Belgium, Greece and New Zealand.

The Assembly voted on the draft resolutions with the following results:

Draft resolution A: adopted by 53 votes to 5, with 1 abstention

Draft resolution B: adopted by 53 votes to 6

USSR amendments (A/1568) to resolution C recommended by the First Committee: first amendment (calling for the deletion of the first paragraph of the preamble): rejected by 49 votes to 5, with 1 abstention; second amendment (seeking to replace in paragraph 2 of the operative part, the provision for free access of Red Cross organizations into the territories of the States concerned by the words "in accordance with the resolutions referred to above"): rejected by 48 votes to 5,

with 2 abstentions; third amendment (calling for the deletion of paragraphs 3 and 4 of the draft resolution): rejected by 51 votes to 5, with 1 abstention

Draft resolution C submitted by the First Committee: adopted by 50 votes to none with 5 abstentions

USSR draft resolution (A/1560) on the report of the Special Committee: rejected by 50 votes to 5, with 3 abstentions

USSR draft resolution (A/1569) on the repeal of death sentences of Greek nationals: rejected by 38 votes to 6, with 11 abstentions.

The resolutions adopted by the General Assembly (382(V)) at its 313th plenary meeting read as follows:

A

The General Assembly,

Having considered the unanimous conclusions of the United Nations Special Committee on the Balkans concerning those members of the Greek armed forces who were captured by the Greek guerrillas and taken into countries north of Greece,

Having noted that with the sole exception of Yugoslavia, the other States concerned are still detaining these members of the Greek armed forces without justification under commonly accepted international practice,

1. Recommends the repatriation of all those among them who express the wish to be repatriated,

2. Calls upon the States concerned to take the necessary measures for the speedy implementation of the present resolution,

3. Instructs the Secretary-General to request the International Committee of the Red Cross and the League of Red Cross Societies to ensure liaison with the national Red Cross organizations of the States concerned, with a view to implementing the present resolution.

B

The General Assembly,

Having considered the report of the United Nations Special Committee on the Balkans and having noted that, although a certain improvement has taken place in the situation on the northern frontiers of Greece, there nevertheless remains a threat to the political independence and territorial integrity of Greece,

1. Approves the report of the United Nations Special Committee on the Balkans;

2. Continues the Special Committee in being until the sixth session of the General Assembly, in accordance with the terms of reference and administrative arrangements contained in General Asembly resolutions 109(II), 193(III) and 288(IV), unless meanwhile the Special Committee recommends to the Interim Committee its own dissolution;

3. Authorizes the Interim Committee to act on such recommendation as it thinks proper.

C

The General Assembly,

Noting with grave concern the reports of the International Committee of the Red Cross and the League of Red Cross Societies and of the Secretary-General, and particularly the statement that "not a single Greek child has yet been returned to his native land and, except for Yugoslavia, no country harbouring Greek children has taken definite action to comply with the resolutions unanimously adopted in two successive years by the General Assembly",

Recognizing that every possible effort should be made to restore the children to their homes, in a humanitarian spirit detached from political or ideological considerations,

Expressing its full appreciation of the efforts made by the International Committee of the Red Cross and the League of Red Cross Societies and by the Secretary-General to implement General Assembly resolutions 193 C (III) and 288 B (IV),

1. Requests the Secretary-General and the International Committee of the Red Cross and the League of Red Cross Societies to continue their efforts in accordance with the aforementioned resolutions;

2. Urges all States harbouring the Greek children to make all the necessary arrangements, in co-operation with the Secretary-General and the international Red Cross organizations, for the early return of the Greek children to their parents and, whenever necessary, to allow the international Red Cross organizations free access to their territories for this purpose;

3. Establishes a Standing Committee, to be composed of the representatives of Peru, the Philippines and Sweden, to act in consultation with the Secretary-General, and to consult with the representatives of the States concerned, with a view to the early repatriation of the children;

4. Requests the International Committee of the Red Cross and the League of Red Cross Societies to co-operate with the Standing Committee;

5. Requests the Secretary-General to report from time to time to Member States on the progress made in the implementation of the present resolution, and requests the international Red Cross organizations and the Secretary-General to submit reports to the General Assembly at its sixth session.

I. THREATS TO THE POLITICAL INDEPENDENCE AND TERRITORIAL INTEGRITY OF CHINA

The item "Threats to the political independence and territorial integrity of China and to the peace of the Far East, resulting from Soviet violations of the Sino-Soviet Treaty of Friendship and Alliance of 14 August 1945, and from Soviet violations of the Charter of the United Nations" was first included in the agenda of the fourth session of the General Assembly, from 20 September to 10 December 1949.

At its 273rd plenary meeting, on 8 December 1949, the General Assembly adopted resolution 292(IV), referring the question to the Interim

Committee for continuous examination and study in the light of the Assembly resolution (291(IV)) on the promotion of the stability of international relations in the Far East.

At the 45th meeting of the Interim Committee, on 15 September 1950, the Chairman pointed out that the scope of the item was wide and that it touched upon important issues which were being considered by other United Nations bodies. Many of these issues would be included in the agenda of the fifth session of the General Assembly, and it was possible that discussion in the Committee on the eve of the fifth session and in the context of the existing political situation would not serve a useful purpose. Accordingly, he suggested that the Committee would facilitate the work of the General Assembly if it were to decide not to debate the question. The Interim Committee accepted the Chairman's suggestion and reported to the General Assembly accordingly.

At its 285th plenary meeting, on 26 September 1950, the General Assembly, on the recommendation of the General Committee, decided to include this item in its agenda, and refer it to the First Committee for consideration and report. The question was considered by the First Committee at its 400th to 404th meetings, 21-23 November 1950.

In the debates of the Committee, three main points of view emerged. Certain representatives, including those of Chile, China, New Zealand, Nicaragua, Peru, the Philippines, Syria, Thailand, the United States and Uruguay, were agreed that further inquiries should be made into the item under consideration, although there were differences of opinion as to the method of inquiry to be used.

In contrast, the representatives of Australia, Belgium, Canada, France, Iceland, Israel and the United Kingdom held the view that further investigation into the matter would be useless since the facts pertinent to the situation had already been made known and become part of history.

The third point of view, voiced by the representatives of the Byelorussian SSR, Czechoslovakia, Poland and the USSR, was that the charges made by the Chinese representative were false and therefore no inquiry into the situation was required. Moreover, these representatives felt that this item should never have been considered by the General Assembly.

During the debate of the Committee, the representative of China charged that the Soviet Union: in violation of the acknowledged sovereignty of the Chinese Government over Manchuria, prevented the re-establishment of Chinese national authority in that province after the war; supplied the Chinese communists with enormous quantities of arms in their insurrection and sent active combatant aid to that army; and actually annexed Outer Mongolia and Tannu Tuva and was in control of the great areas of Manchuria and Sinkiang.

The representative of China further charged that the Chinese communist régime was the fruit of Soviet Union aggression in China and that its leaders were puppets used by the Soviet Union to overthrow the National Government of China, in violation of the Sino-Soviet Treaty of Friendship and Alliance of 14 August 1945 and in violation of the Charter of the United Nations.

In reply to the arguments advanced by the representative of the USSR he said that, if the 1945 Treaty was no longer in force, that was only by the arbitrary and unilateral decision of the USSR, taken in violation of all the practices recognized by civilized nations and in violation of General Assembly resolution 291(IV), which called upon all States to respect existing treaties concerning China. Furthermore, the charges which his Government had made in 1949 had referred to violations committed in the preceding four years, and it could not be disputed that the Treaty was still in force at that time.

To validate his charges, the representative of China recalled, inter alia, that the United States Secretary of State, Mr. Acheson, had said on 12 January 1950 that the USSR was annexing to its own territory the four northern provinces of China, and that this statement had been followed, on 25 January 1950, by the publication of a pamphlet in which the State Department had given details regarding the annexation of the four provinces by the USSR. The representative of China quoted W. Averell Harriman as having stated, on 23 October 1950, that the Soviet Union's violation of the Treaty of Friendship and Alliance of 1945 and of the Yalta Agreement had marked the beginning of the post-war difficulties.

The representative of China further stated that in June 1950 there were no less than 45,000 Soviet Union advisers and technicians exercising economic, military, technical and political control in China. He also asserted that the foreign policy of the Chinese communist régime was completely subservient to the Soviet Union and cited the Korean conflict and the Chinese regime's attitude toward the United Nations as evidence of this.

In order to deal with the alleged Soviet Union aggression in China, the representative of China proposed a draft resolution (A/C.1/631/Rev.1)

at the 400th meeting of the Committee on 21 November which, after recalling the previous Assembly resolutions 291(IV) and 292(IV), and noting that the Interim Committee, to which the case had been referred by the fourth session of the General Assembly, had not submitted recommendations to the fifth session, provided for the appointment of a United Nations Commission of Inquiry for the purpose of gathering information and facts from the two countries in dispute as well as from other States Members of the United Nations. The Commission was to submit a report on its findings to the next session of the General Assembly.

The representative of the United States voiced his support for this resolution, stating, among other things, that it was necessary for the United Nations to face the facts and expose a master plan that had already resulted in the enslavement of one third of the human race. Soviet Communism, according to this representative, instead of adopting the friendly attitude of good neighbour, had tried to impose upon China a new colonialism, Soviet style, and the time had come to awaken the peoples of the Far East to danger to which none could afford to be indifferent. The representative of the United States further pointed out that if this question were buried, it would destroy the hopes so many had placed in the General Assembly, and would have a bad effect on the prestige of the Organization.

The representative of Uruguay also considered that unless an inquiry into the complaint lodged by the legally recognized representative of China were made, the United Nations would lose its prestige. The representative of Thailand declared his support for the Chinese resolution, while the representative of Egypt, although in favour of the resolution in principle, doubted its practicability.

The representative of Syria also doubted the utility of creating a commission of inquiry which could not enter either China or the USSR and get on-the-spot information and facts relating to the item under consideration. He therefore submitted a second draft resolution (A/C.1/632) at the 400th meeting of the Committee, which proposed that the General Assembly should instruct the Interim Committee to continue inquiry on this question in order to obtain more information and facts having direct bearing upon the case. This resolution was supported by the representatives of Chile, China, Egypt, New Zealand, Nicaragua, Peru, the Philippines, the United States and Uruguay.

The representative of China withdrew his resolution (A/C.1/631/Rev.1) at the 404th meeting of the Committee and stated that his delegation would vote in favour of the Syrian draft resolution.

The other delegations which supported the Syrian resolution voiced their belief that it was the duty of the United Nations and its obligation under the Charter to consider the charges made by the representative of China against the USSR. The representative of Egypt further pointed out, in answer to those representatives (see below) who believed it was useless to refer the item back to the Interim Committee since that Committee had not been able to reach any decision concerning the item when it had previously been referred to it by the General Assembly, that the Interim Committee had not reported to the fifth session of the General Assembly on this question because, inter alia, it had been aware that the agenda of the fifth session included several inter-related questions. Therefore, the Committee had wanted to await the point of view of delegations on these questions as a whole, as they would be discussed in the fifth session. The representative of Egypt felt that the discussions of the fifth session had given the Interim Committee some light on the subject, and that the Syrian proposal was, for that reason, very timely.

At the 403rd meeting, on 22 November, the representative of Egypt proposed an oral amendment to the Syrian draft resolution, adding that the Interim Committee was to report to the General Assembly at its next regular session. This was subsequently accepted by the representative of Syria.

At the same meeting, an amendment was submitted by the representative of El Salvador (A/C.1/633) to the Chinese draft resolution (A/C.1/631/Rev.1). The representative of El Salvador, however, replaced the amendment by a draft resolution (A/C.1/634) at the 404th meeting on 23 November, after the representative of China had withdrawn his draft resolution in favour of that proposed by Syria.

The resolution proposed by El Salvador drew the attention of all States to the necessity of complying faithfully with the recommendation contained in General Assembly resolution 291(IV) to promote the stability of international relations in the Far East, and which for that purpose, inter alia, recommended scrupulous observance of the treaties in force when that resolution was adopted. In this resolution, the representative of El Salvador utilized proposals concerning certain minor changes in the wording of the resolution made by the representative of Egypt at the 403rd meeting

of the Committee and by the representative of Mexico at the 404th meeting.

The representatives of Belgium, Canada, Iceland and Mexico declared themselves in favour of this resolution. The representatives of Mexico and Iceland pointed out that it was illogical not to accept the resolution proposed by the representative of El Salvador since it merely reaffirmed the position adopted by the General Assembly in 1949.

The delegations of Australia, Belgium, Canada, France, Iceland, Israel and the United Kingdom opposed the Chinese and Syrian resolutions (A/C.1/631/Rev.1 & A/C.1/632 respectively) on the point that it would be impractical and useless to initiate a formal inquiry into events which were already fully on record.

The representative of the United Kingdom pointed out that the essential facts were not in dispute, and all delegations could draw their own conclusions from them; further information would not alter their judgment. The representative of Israel stated that it would not be helpful to seek further information, since it would simply divert the attention of the United Nations from the immediate issues lying ahead.

The representative of Australia supported the remarks made by the representative of the United Kingdom, further pointing out that General Assembly resolution 291(IV) was still in force and appeared adequate to cover the situation under discussion. He therefore recommended that the matter be shelved. The representative of Belgium declared that a new resolution would be useless since the Interim Committee remained seized of the item under discussion and was at liberty to discuss it again whenever it deemed it appropriate.

The representative of Canada, while concurring with the above points of view, added that the Interim Committee could not be expected to resolve problems which the First Committee itself could not resolve.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland and the USSR considered that this item should never have been included in the agenda, because the Central People's Government of the People's Republic of China was the only lawful Government of China, which ruled de jure and de facto. Only this Government was entitled to represent China and the Chinese people through its accredited representatives, and to make proposals to the United Nations on China's behalf. The allegation of the Kuomintang agents that there was a "dispute" between China and the USSR was nonsense, because the Central People's Government, with which the USSR had the friendliest relations, was the only sovereign and legitimate government of China. The very Treaty of 14 August 1945 no longer existed. It had lost its force and meaning and had been superseded by the agreement of 14 February 1950 between the USSR Government and the Central People's Government of the People's Republic of China. These representatives contradicted, point by point, the specific charges which the representative of China made during the dispute. The following were certain of the points made by these delegations.

The charge that the Government of the USSR desired to take over the economy of Manchuria was, these representatives held, a slanderous one. In fact, they asserted, as the result of an agreement concluded between the USSR and the People's Republic of China on 14 February 1950, the Government of the USSR had agreed to transfer to the full ownership of the Government of that Republic all Soviet rights with respect to the joint administration of the Chinese Changchun Railway and all appurtenances thereto, the military facilities in the area of the Port Arthur naval base, and all facilities in the city of Dalny (Dairen) which had been leased or administered by the Government of the Soviet Union, and also facilities taken by Soviet economic organizations from the Japanese authorities in Manchuria.

Both in the fourth and fifth sessions it had been alleged that in 1945 and 1946 the USSR Government had prevented the then Chinese Government from re-establishing its authority in Manchuria; e.g. it had been alleged that the USSR authorities had refused to communicate to the Kuomintang authorities the exact dates when USSR troops would be withdrawn. These charges were ludicrous since, in reality, the Soviet Command had informed the Kuomintang about withdrawals of Soviet troops in ample time, having often given even more advance notice than the Kuomintang had requested. The withdrawal dates furnished by the Army of the USSR were cited as evidence of this.

Dealing with the charge that the USSR had supplied weapons to the Chinese People's Liberation Army, these representatives stated that that army had captured tremendous quantities of United States equipment during battles with the Nationalist forces, and for proof of this, they referred, among other things, to the White Paper issued by the United States Department of State in 1949.[113] This, they said, was the reason why

[113] United States Relations with China (Department of State Publication 3573, Far Eastern Series 30; Washington, August 1949).

the Chinese People's Liberation Army had been excellently equipped.

In reply to the charge that the USSR had failed to carry out its obligations under the Sino-Soviet Treaty of 14 August 1945 and that the USSR threatened the independence and integrity of China, it was stated that such threats did exist, but that they emanated not from the USSR but from United States monopolists who had been supporting the reactionary forces of China. The accusation that the USSR was annexing China's northern provinces was said by these representatives to be a manifestation of Mr. Dean Acheson's attempt to shift to the USSR the blame for the collapse of United States policy.

It was further emphasized by these delegations that the Kuomintang had collapsed because of its misdeeds against the people; the Chinese revolution had been an internal revolution, for it was not possible to export a revolution from one country to another.

These representatives stated that since the charges made by the representative of China were false, they could not support the resolutions proposed by China (A/C.1/631/Rev.1), Syria (A/C.1/632) and El Salvador (A/C.1/634). Instead, they felt that the best service the General Assembly could render the Chinese people would be to admit to the United Nations the legitimate representatives of the legitimate Government of China, the People's Republic of China, and cease supporting the Nationalists who, they said, still usurped a seat in the United Nations.

At the 404th meeting of the First Committee on 23 November, the Syrian draft resolution (A/C.1/632) as amended was adopted by 35 votes to 17, with 7 abstentions, and the draft resolution proposed by the representative of El Salvador (A/C.1/634) was adopted by 38 votes to 6, with 14 abstentions.

When the report of the First Committee (A/1563) and the accompanying resolutions were considered at the 314th plenary meeting of the General Assembly on 1 December 1950, views similar to those presented in the discussions of the First Committee were expressed. The Assembly adopted draft resolution A in the Committee's report by 35 votes to 17, with 7 abstentions, as resolution 383 A (V), and draft resolution B by 39 votes to 6, with 14 abstentions, as resolution 383 B (V). The resolutions read as follows:

A

The General Assembly,

Noting that the Interim Committee, to which the Assembly, during its fourth session, referred the complaint concerning "Threats to the political independence and territorial integrity of China and to the peace of the Far East, resulting from Soviet violations of the Sino-Soviet Treaty of Friendship and Alliance of 14 August 1945 and from Soviet violations of the Charter of the United Nations", has not yet submitted recommendations thereon,

Decides to instruct the Interim Committee to continue inquiry on this question, in order to obtain more information and facts having a direct bearing upon the case if such findings are obtainable, and to report to the General Assembly at its next regular session. The records of the discussion of the First Committee on the case shall be made available to the Interim Committee.

B

The General Assembly

Decides to draw the attention of all States to the necessity of complying faithfully with the recommendation contained in General Assembly resolution 291(IV), the object of which is to promote the stability of international relations in the Far East, and which recommends specific principles for that purpose, including, inter alia, the principle of the scrupulous observance of the treaties in force when the resolution was adopted, the purpose of which was to secure the independence and territorial integrity of China.

J. OBSERVANCE IN BULGARIA, HUNGARY AND ROMANIA OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The General Assembly, after considering at its third and fourth sessions[114] charges of violations of human rights in Bulgaria, Hungary and Romania, decided in resolution 294(IV)[115] to ask the International Court of Justice for an advisory opinion on certain questions involving the implementation of the Peace Treaties with these three countries.

In these Peace Treaties, concluded in Paris in February 1947, Bulgaria, Hungary and Romania had undertaken, among other things, to secure the enjoyment of basic human rights and fundamental freedoms to all persons under their jurisdiction and to submit disputes arising under the treaties to settlement through certain procedures, including the arbitration by treaty commissions. The Secretary-General of the United Nations was authorized under the Treaties, if requested by either party to

[114] See Y.U.N., 1948-49, pp. 316-27.
[115] For text, see ibid., pp. 326-27.

a dispute, to appoint the third member of a treaty commission if the parties failed to agree upon the appointment of a third member.

1. Advisory Opinion of the Court

The General Assembly, by resolution 294(IV) of 22 October 1949, asked the Court for an opinion on the following four questions:

"I. Do the diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand and certain Allied and Associated Powers signatories to the Treaties of Peace on the other, concerning the implementation of article 2 of the Treaties with Bulgaria and Hungary and article 3 of the Treaty with Romania, disclose disputes subject to the provisions for the settlement of disputes contained in article 36 of the Treaty of Peace with Bulgaria, article 40 of the Treaty of Peace with Hungary, and article 38 of the Treaty of Peace with Romania?"

In the event of an affirmative reply to question I:

"II. Are the Governments of Bulgaria, Hungary and Romania obligated to carry out the provisions of the articles referred to in question I, including the provisions for the appointment of their representatives to the Treaty Commissions?"

In the event of an affirmative reply to question II and if within thirty days from the date when the Court delivers its opinion, the Governments concerned have not notified the Secretary-General that they have appointed their representatives to the Treaty Commissions, and the Secretary-General has so advised the International Court of Justice:

"III. If one party fails to appoint a representative to a Treaty Commission under the Treaties of Peace with Bulgaria, Hungary and Romania where that party is obligated to appoint a representative to the Treaty Commission, is the Secretary-General of the United Nations authorized to appoint the third member of the Commission upon the request of the other party to a dispute according to the provisions of the respective Treaties?"

In the event of an affirmative reply to question III:

"IV. Would a Treaty Commission composed of a representative of one party and a third member appointed by the Secretary-General of the United Nations constitute a Commission, within the meaning of the relevant Treaty articles, competent to make a definitive and binding decision in settlement of a dispute?"

The General Assembly requested the Secretary-General to make available to the Court the relevant exchanges of diplomatic correspondence communicated to him for circulation to the Members of the United Nations and the records of the General Assembly proceedings on this question. It also decided to retain the question on the agenda of its fifth regular session.

The Assembly resolution was transmitted to the Court's Registry by the Secretary-General on 31 October 1949.

On 7 November 1949, the Registrar notified the request for opinion to all States entitled to appear before the Court. On the same day, the Registrar informed all States entitled to appear before the Court and parties to one or more of the abovementioned Peace Treaties (Australia, the Byelorussian SSR, Canada, Czechoslovakia, Greece, India, New Zealand, Pakistan, the Ukrainian SSR, the Union of South Africa, the USSR, the United Kingdom, the United States and Yugoslavia) that the Court was prepared to receive from them written statements on the questions submitted to it for an advisory opinion and to hear oral statements at a date which would be fixed in due course. The communication was also sent on the same day to the other States parties to each of the said Treaties, namely, to Bulgaria, Hungary and Romania.

By an order of 7 November 1949, the expiration of the time-limit for the submission of written statements was fixed at 16 January 1950.

Within the prescribed time-limit written statements and communications were received from the following States: Australia, Bulgaria, the Byelorussian SSR, Czechoslovakia, Hungary, Romania, the Ukrainian SSR, the USSR, the United Kingdom and the United States.

At public sittings held on 28 February and on 1 and 2 March 1950, the Court heard oral statements submitted by the representatives of the Secretary-General of the United Nations, of the United States and of the United Kingdom.

a. FIRST PHASE

(1) The Court's Opinion on the First Two Questions

In its opinion,[116] handed down on 30 March 1950, the Court stated first of all that it was called upon, for the moment, to give an opinion only oh questions I and II set forth in the General Assembly resolution. The Court began by considering the objection to the competence of the Court presented by Bulgaria, Hungary and Romania, and also by several other Governments, in the communications which they addressed to the Court. These States argued that the request for opinion was an action ultra vires on the part of the General Assembly which was "interfering" or "intervening" in matters essentially within the domestic jurisdiction of States. An objection was also directed specifically against the competence of the Court; it was alleged that Article 2, paragraph 7, of the Charter forbade the organs of the United Nations, including the Court, to intervene in matters which are essentially within the domestic jurisdiction of any State.

[116] Interpretation of Peace Treaties, Advisory Opinion: I.C.J. Reports, 1950, p. 65.

The Court set aside the first argument, directed at its competence through that of the General Assembly. The Court considered that it was not called upon to deal with the charges brought before the General Assembly, since the questions put to the Court related neither to the alleged violations of the provisions of the Treaties concerning human rights and fundamental freedoms nor to the interpretation of the articles relating to these matters. The object of the request for an advisory opinion was much more limited. It was directed solely to obtaining from the Court certain clarifications of a legal nature regarding the applicability of the procedure for the settlement of disputes by the Commissions provided for in the express terms of article 36 of the Treaty with Bulgaria, article 40 of the Treaty with Hungary and article 38 of the Treaty with Romania. The interpretation of the terms of a treaty for this purpose, the Court declared, could not be considered as a question essentially within the domestic jurisdiction of a State. It was a question of international law which, by its very nature, lay within the competence of the Court.

These considerations also sufficed in the opinion of the Court to dispose of the objection directed specifically against its competence.

To the objection that the advisory procedure before the Court would take the place of the procedure instituted by the Peace Treaties for the settlement of disputes, the Court answered that, in its opinion, the object of the request was to facilitate this procedure by seeking information as to its applicability in the case.

Bulgaria, Hungary and Romania had further argued that the request was a violation of an alleged principle of international law, by which no judicial proceedings relating to a legal question pending between States could take place without the consent of the States concerned. This objection, the Court considered, revealed a confusion between the principles governing contentious procedure and those which were applicable to advisory opinions. The consent of States, parties to a dispute, was the basis of the Court's jurisdiction in contentious cases. In the case of an advisory opinion, the Court's reply was only of an advisory character and, as such, had no binding force. No State, whether a Member of the United Nations or not, could prevent the giving of an advisory opinion which the United Nations considered to be desirable in order to obtain enlightenment as to the course of action it should take.

The Court considered that its reply represented its participation in the activities of the Organization, as an organ of the United Nations and in principle should not be refused. It recognized, however, that the obligation to reply was limited by the essentially judicial character of the Court.

Under Article 65 of its Statute, the Court may examine whether the circumstances of a case are such as to lead it to decline to give an advisory opinion. In the present case, it considered that the circumstances differed from those which led the Permanent Court of International Justice to refuse to give an opinion in the Eastern Carelia case.[117]

The present request for an opinion, the Court observed, was concerned solely with the applicability to certain disputes of the procedure for settlement instituted by the Peace Treaties and in no way touched the merits of those disputes. Furthermore, the settlement of those disputes was entrusted solely to the commissions provided for by the Peace Treaties: it was for those commissions to decide upon objections to their jurisdiction. The legal position of the parties to these disputes could not, therefore, be in any way compromised by the answers that the Court might give to the questions put to it.

The Court observed in addition that, under Article 68 of its Statute, the provisions of the Statute applicable in contentious cases must be extended to the advisory functions of the Court only "to the extent to which it [the Court] recognizes them to be applicable." They were, in the Court's opinion, not applicable in the present case in the manner contended by the States which argued that no advisory opinion should be given without the consent of Bulgaria, Hungary and Romania.

For these reasons, the Court considered that it had the power to answer questions I and II and that it was under a duty to do so.

The Court analysed question I in two main parts:

(1) whether the diplomatic exchanges between Bulgaria, Hungary and Romania, on the one hand, and certain Allied and Associated Powers signatories to the Peace Treaties, on the other, disclosed any disputes; (2) if they did so, whether such disputes were among those subject to the provisions for the settlement of disputes contained in the Peace Treaties.

On the first point, the Court recalled that the United Kingdom (acting in association with Aus-

[117] See The Eastern Carelia Case (P.C.I.J. Advisory Opinion No. 5). In this case, the Permanent Court declined to give an advisory opinion, because it found that the question put to it was directly related to the main point of a dispute actually pending between two States, so that to answer the question would be substantially equivalent to deciding the dispute between the parties. It also held the request raised a question of fact which could not be elucidated without hearing both parties.

tralia, Canada and New Zealand) and the United States had charged Bulgaria, Hungary and Romania with having violated in various ways provisions dealing with human rights and fundamental freedoms in the Peace Treaties. The latter Governments had denied these charges. Confronted with such a situation, the Court concluded that as the two sides held clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations, international disputes had arisen. The Court found that the Peace Treaties did not limit the term "dispute" to a dispute between the United States, United Kingdom and the USSR acting in concert on the one hand, and Bulgaria, Hungary or Romania on the other.

On the second point, the Court recognized that the disputes related to the question of the performance or non-performance of the obligations provided in the articles of the Peace Treaties dealing with human rights and fundamental freedoms and, therefore, were clearly disputes concerning the interpretation or execution of the Peace Treaties. Since no other procedure of settlement had been specifically provided for in the Treaties, these disputes, it considered, must be subject to the methods of settlement contained in the articles providing for the settlement of all disputes.

The Court, by 11 votes to 3, answered the first question in the affirmative.

As a preliminary to its answer to the second question, the Court ruled that the term "articles" in the question's phrasing referred only to those providing for the settlement of disputes, and not to those dealing with human rights. The sole object of this question, said the Court, was to determine whether the disputes were among those falling under the procedure provided for in the Treaties with a view to their settlement by arbitration. Bulgaria, Hungary and Romania had not denied their obligation to carry out the article dealing with human rights.

Diplomatic documents presented to the Court had shown that the parties had not succeeded in settling their disputes by direct negotiation in accordance with the terms of the Treaties. Further, the disputes had not been resolved by the three heads of mission within two months, as provided, nor had the parties agreed on any other means of settlement. After the expiry of the prescribed period, the United Kingdom and the United States had requested that the disputes should be settled by the commissions mentioned in the Treaties. In the opinion of the Court, all the conditions required by the Treaties for entering on the settlement of disputes by the commissions had been fulfilled.

The Court held that the provision in the Peace Treaties that any dispute should be referred to a commission "at the request of either party" implied that either party was obligated, at the request of the other, to co-operate in constituting the commission, in particular by appointing its representative. Otherwise the method of settlement provided for in the Peace Treaties would fail completely in its purpose.

The Court concluded, by 11 votes to 3, that question III must also be answered in the affirmative.

Judge Azevedo, while concurring in the Opinion of the Court, appended to the Opinion a statement of his separate opinion. The dissenting judges were Judges Winiarski, Zoricic and Krylov, who presented statements of their dissenting opinions.

(2) Separate **Opinion by Judge** Azevedo

In his separate opinion, Judge Azevedo stated that the Court should have abstained from giving an opinion because the request referred to a definite and clearly specified situation. It involved a dispute which required either settlement or an indication of the method of settlement. That brought the matter into the sphere of contentious cases, in which the Court's competence was subject to the agreement of the parties.

Bulgaria, Hungary and Romania, however, had not appeared during the proceedings, nor had they acknowledged the jurisdiction of the Court.

Judge Azevedo declared that to affirm the existence of a dispute in the present case was to begin to adjudicate upon it, and therefore to recognize the competence of the Court.

He went on to state that the Court cannot abandon the fundamental rules of international law in order to favour an indirect action designed to settle a dispute actually pending by way of a request for an advisory opinion. A large measure of flexibility, he held, is admissible in seeking the consent of the parties; but this consent cannot be dispensed with altogether when the Court is confronted with a dispute actually pending. Similarly, one may acknowledge the duty of reasonable co-operation with the other organs of the United Nations and go so far as to give opinions which, though couched in abstract terms, may be seen on closer inspection to be more or less indirectly connected with specific disputes; but that, he stated, would not justify the delivery of opinions relating to disputes which are explicitly indicated

or mentioned either in the text of the questions or in the preamble which usually precedes the questions.

He indicated, however, his agreement with the opinion of the Court on the specific questions asked.

(3) Dissenting Opinions of Judges Winiarski, Zoricic and Krylov

The need for the consent of the parties in a case with contentious aspects was stressed in the dissenting opinions of Judges Winiarski, Zoricic and Krylov. All three Judges stated that, although disputes unquestionably existed, the Court should have refrained from giving an answer because this would involve the interpretation of treaties.

Judge Winiarski declared that to say that an obligation under the Peace Treaties rested with Bulgaria, Hungary and Romania, which was denied by them, would mean that the Court was pronouncing on the interpretation and application of the jurisdictional clauses of the Peace Treaties, and this was in the first place the prerogative of the High Contracting Parties themselves; the Court could not make such a pronouncement without their consent or, at least as a general rule, without their participation. The Court, he said, heard the interpretation and the conclusions of the United States and the United Kingdom; it did not hear statements by Bulgaria, Hungary and Romania. Although these three States might be at fault in their interpretation and execution of the human rights articles and the arbitration clause, they were right in their denial of the Court's jurisdiction.

In order to give an opinion in accordance with the conditions laid down in its Statute and Rules, the Court required to hear the views of both parties in proceedings which, though not contentious, do, nevertheless, call for the presentation from both sides of argument, declarations, objections, proof and submissions. This had been impossible because the three Governments had refused to appear. Judge Winiarski emphasized that the jurisdiction of the Court, even though it was exercising its advisory functions, could not be imposed upon a State if that State had not given its consent freely and beforehand.

Judge Zoricic considered that the Court was right in ruling that the matters concerning the observance of human rights did not fall within the limits of the questions asked. He also stated that objections to the Court's jurisdiction (on the ground that it was intervention in domestic affairs) were ill-founded and could not be upheld. However, he believed that the Court should have declared itself unable to give an opinion because, in doing so, it could not avoid dealing with the merits of the dispute.

He stated that it was a fundamental rule of international law that no State can be compelled to submit its disputes with other States to any procedure, judicial or otherwise, without its consent, and that this rule applied not only to the Court's judgments but also to its advisory opinions. In the present case, the subject-matter of the advisory opinion was the interpretation of a treaty and the existence of certain international obligations arising under that treaty, so that the Court's answer was substantially equivalent to deciding the dispute between the parties which were then before the Court.

In his dissenting opinion, Judge Krylov stated that according to the wording of both questions, the Court was being asked to consider the issue in connexion with treaty articles on human rights as well as the so-called "performance" clauses. He also held that objections on the grounds of domestic jurisdiction were well founded. The question of the observance of human rights and fundamental freedoms in Bulgaria, Hungary and Romania was, in his view, purely the problem of the functioning of the judicial and administrative authorities of these States, and therefore belonged to the essentially domestic jurisdiction of the State and was out of the jurisdiction of the International Court of Justice.

It was proper, he said, to refuse to give an advisory opinion on questions the meaning and purpose of which were primarily political, even though the General Assembly submitted them to the Court. The Court, he pointed out, did not have the consent of any one of the three States concerned. This consent was all the more necessary since there was considerable tension in the relations between the Governments that had appeared before the Court, on the one hand, and the "accused" Governments, on the other. The Court's affirmative answer, he held, would "drag the Court into the political struggle".

b. SECOND PHASE

(1) The Court's Opinion on the Third Question

The Court's advisory opinion in the first phase was notified to the Secretary-General of the United Nations by the Registrar on 30 March 1950.

On 1 May 1950, the Acting Secretary-General of the United Nations notified the Court that, within 30 days of the date of the delivery of the

Court's advisory opinion on the first two questions, he had not received information that any one of the three Governments concerned had appointed its representative to the Treaty Commissions.

On 5 May 1950, the President of the Court fixed at 5 June 1950 the date of expiry of the time-limit for the submission by the States concerned of written statements on questions III and IV. This Order was notified to the Governments concerned.

Additional documents were sent to the Court by the Secretary-General of the United Nations on 16 May 1950. On 2 June 1950, the United States sent a written statement. The United Kingdom had previously stated its views on questions III and IV in the written statement submitted during the first phase of the case.

At public sittings held on 27 and 28 June 1950, the Court heard oral statements submitted on behalf of the Secretary-General of the United Nations and on behalf of the United States and of the United Kingdom.

In the second advisory opinion concerning the Peace Treaties,[118] handed down on 18 July 1950, the Court recalled that it had stated in its Opinion of 30 March 1950 that Bulgaria, Hungary and Romania were obligated to carry out the provisions of those articles of the Peace Treaties which related to the settlement of disputes, including the provisions for the appointment of their representatives to the treaty commissions. As it had been informed by the Secretary-General of the United Nations that no information on such appointments had been given by the three Governments concerned, the Court had then to decide whether the provision empowering the Secretary-General to appoint the third member of the commission applied to the present case, in which one of the parties refused to appoint its own representative to the commission.

The Court stated that while the text of the Peace Treaties in its literal sense did not completely exclude the possibility of the appointment of the third member of the commission before the appointment of both national commissioners, it was nevertheless true that according to the natural and ordinary meaning of the terms it was intended that the appointment of both the national commissioners should precede that of the third member. This, the Court pointed out, clearly resulted from the sequence of the events contemplated by the article: appointment of a national commissioner by each party; selection of a third member by mutual agreement of the parties; failing such agreement within a month, his appointment by the Secretary-General. Moreover, it was the normal order in arbitration practice and, in the absence of any express provision to the contrary, there was no reason to suppose that the parties wished to depart from it.

The Secretary-General's power to appoint a third member had no other basis than the agreement of the parties as expressed in the dispute clause of the Peace Treaties. By its very nature such a clause must be strictly construed and could be applied only in the case expressly provided. The case envisaged in the Peace Treaties was that of the failure of the parties to agree upon the selection of the third member and not the much more serious one of a complete refusal of co-operation by one of them, taking the form of refusing to appoint its own commissioner.

A change in the normal sequence of appointments could only be justified if it were shown by the attitude of the parties that they desired such a reversal to facilitate the constitution of commissions in accordance with the terms of the Peace Treaties. But such was not the present case. Bulgaria, Hungary and Romania, the Court said, had from the beginning denied the very existence of a dispute, and had absolutely refused to take part, in any manner whatever, in the procedure provided for in the disputes clauses of the Peace Treaties.

In these circumstances, the appointment of the third member by the Secretary-General, instead of bringing about the constitution of a three-member commission provided for by the Peace Treaties, would result only in the constitution of a two-member commission, not the kind of commission for which the Peace Treaties had provided. The opposition of the one national commissioner could prevent the commission from reaching any decision. The commission could decide only by unanimity, whereas the disputes clause provided for a majority decision. There was no doubt that the decisions of a two-member commission, one of which was designated by one party only, would not have the same degree of moral authority as those of a three-member commission.

In short, the Secretary-General would be authorized to proceed to the appointment of a third member only if it were possible to constitute a commission in conformity with the provisions of the Peace Treaties. In the present case, the refusal by Bulgaria, Hungary and Romania to appoint their own commissioners made the constitution of

[118] Interpretation of Peace Treaties (Second Phase), Advisory Opinion: I.C.J. Reports, 1950, p. 221.

such a commission impossible and rendered useless the appointment of the third member by the Secretary-General.

The Court had declared in its Opinion of 30 March 1950 that Bulgaria, Hungary and Romania were under an obligation to appoint their representative to the treaty commissions. Refusal to fulfil a treaty obligation involved international responsibility. Nevertheless, such a refusal could not alter the conditions contemplated in the Peace Treaties for the exercise of the Secretary-General's power of appointment. These conditions were not present in this case and their lack was not made good by the fact that their absence was due to the breach of a treaty obligation. The failure of machinery for settling disputes by reason of the practical impossibility of creating the commission provided for in the Peace Treaties was one thing; international responsibility, another. One could not remedy the breach of a treaty obligation by creating a commission which was not the kind of commission contemplated by the Peace Treaties. It was the Court's duty to interpret treaties, not to revise them.

Nor could the maxim ut res magis valeat quam pereat, often referred to as the rule of effectiveness, justify the Court in attributing to the provisions a meaning which would be contrary to their letter and spirit.

The fact that an arbitration commission may make a valid decision although the original number of its members is later reduced, for instance by withdrawal of one of the arbitrators, presupposed the initial validity of the commission, constituted in conformity with the will of the parties as expressed in the arbitration agreement, whereas the appointment of the third member by the Secretary-General in circumstances other than those contemplated in the Peace Treaties raised precisely the question of the initial validity of the constitution of the commission. In law, the two situations were clearly distinct and it was impossible to argue from one to the other.

Nor could it be said that a negative answer to question III would seriously jeopardize the future of the many similar arbitration clauses in other treaties. The practice of arbitration showed that, whereas draftsmen of arbitration conventions often took care to provide for the consequences of the inability of the parties to agree on the appointment of a third member, they had, apart from exceptional cases, refrained from contemplating the possibility of a refusal by a party to appoint its own commissioner. The few treaties containing express provisions on the matter indicated that the signatory States in those cases felt the impossibility of remedying the situation simply by way of interpretation of the treaties. In fact, the risk was a small one as, normally, each party had a direct interest in the appointment of its commissioner and must, in any case, be presumed to observe its treaty obligations. That this was not so in the present case did not justify the Court in exceeding its judicial function on the pretext of remedying a default for the occurrence of which the Peace Treaties had made no provision.

For those reasons the Court, by 11 votes to 2, answered question III in the negative. It held that it was therefore unnecessary for it to consider question IV, which required an answer only in the event of an affirmative answer to the preceding question.

Judge Krylov, while joining in the conclusions of the Court's Opinion and the general line of argument, declared himself unable to concur in the part of the Opinion dealing with the problem of international responsibility as, in his opinion, this problem went beyond the scope of the request for opinion.

Judges Read and Azevedo, declaring that they were unable to concur in the Opinion of the Court, appended statements of their dissenting opinions.

(2) Dissenting Opinions of Judges Read and Azevedo

Judge Read, in his dissenting opinion, stated that he was of the opinion that an affirmative answer should be given to both questions III and IV. The central issue, he stated, was whether the provisions of the Peace Treaties should be construed as authorizing Bulgaria, Hungary and Romania to frustrate the operation of the "disputes article" and to prevent judicial review of the charges and decision of the disputes, by the device of defaulting on their obligations under the Peace Treaties in the matter of appointing their national representatives on. the treaty commissions.

The text of the "disputes article" considered by themselves, Judge Read held, showed a firm intention of the Parties concerned to provide a workable compulsory jurisdiction to deal with disputes arising out of the substantive provisions of the Peace Treaties. A negative answer to question IV would destroy these articles as an effective guarantee of the substantive provisions of the Peace Treaties; it would render largely nugatory the undertakings given in the Treaties to secure the enjoyment of human rights and fundamental freedoms.

Judge Read stated that in the present instance, the Government in default, by failing to appoint its representative to the treaty commission, clearly waived its rights or privileges under the Peace Treaties and defaulted in the performance of its duty—although, of course, it would be open to that Government at any time to withdraw its waiver to comply with its obligations under the Peace Treaties and to make an appointment—but no party to a treaty could destroy the effect of the treaty itself by its own default or by its failure to exercise a right or a privilege. In the present instance, that Government could not by such an omission prevent the treaty commission from performing its allotted task.

In his opinion, a negative answer to question IV would lead to the establishment, by the process of judicial interpretation, of an escape clause, available only to treaty violators, which would enable a defaulting Party to the Peace Treaty to destroy the effectiveness of the "disputes article" and to disregard with impunity most of its undertakings under the substantive provisions, and, in particular, to render largely nugatory the guarantees for securing human rights and fundamental freedoms.

Judge Azevedo, in his dissenting opinion, stated that he gave an affirmative answer to both questions III and IV. There was nothing in the preparatory work for the Peace Treaties, he explained, to show that the Parties concerned contemplated the eventuality of all disputes remaining without a solution, practically facilitating the non-performance of the Treaties themselves. A strict interpretation limited to an examination of one text only and which took as its data a partial intention of the Parties, could not, in his view, prevail, especially if it confirmed the complete breakdown of the whole machinery for solving the disputes, although it was recognized in theory that a responsibility arose from the fact that an international obligation had been violated.

The current practice with respect to arbitration tribunals, he pointed out, was to appoint the third member after the other members had been appointed, or at the same time; but this empirical observation by no means justified the Court's reading into the texts of the Peace Treaties a condition which did not exist.

An excessive respect for formulae, he went on to say, should not result in the extension of a mere concept such as, for instance, the one of the "fundamental procedural order" which had sometimes been put forward to give exceptional importance to the timing of the constitution of an organ, to the detriment of social exigencies and for the exclusive benefit of those who were forgetful of their promises, whether they be individuals or States.

In Judge Azevedo's opinion, the absence of the "representative" of one of the parties was no reason for suspecting the third member, whose function was not in any way changed thereby. Whether he acted with one or two members, he remained free to have the last word.

In case of default, Article 53 of the Court's Statute contented itself with a recommendation to the International Court to exercise a certain ex officio control, which it had already had occasion to exert. There was nothing to prevent organs which functioned in an incomplete way from taking their guidance from the same principle when they were about to make their decisions.

The Court's advisory opinion in the second phase was notified to the Secretary-General by the Registrar on 18 July 1950.

2. Consideration by the General Assembly at Its Fifth Session

The General Assembly, at its fifth session, considered the question at the 2nd to 6th meetings of the Ad Hoc Political Committee, 2 to 5 October, and at the 302nd and 303rd plenary meetings, 3 November 1950.

a. DISCUSSION IN THE AD Hoc POLITICAL COMMITTEE

The Committee had before it the advisory opinions of the Court, an Australian draft resolution (A/AC.38/L.1) and two amendments to it—a Bolivian amendment (A/AC.38/L.2) and a Cuban amendment (A/AC.38/L.3).

The Australian draft (A/AC.38/L.1) would have the Assembly: take note of the advisory opinions of the Court; express its grave concern at the failure of Bulgaria, Hungary and Romania to fulfil their obligation to appoint representatives to the treaty commissions; express its opinion that the conduct of these Governments indicated that they were aware of breaches of their obligations to secure the enjoyment of human rights and fundamental freedoms in their countries; note that serious accusations on these matters continued to be made without satisfactory refutation; and invite the Members of the United Nations to submit to the Secretary-General all evidence available to them in relation to the matter.

The Bolivian amendment (A/AC.38/L.2) to the Australian draft proposed to insert a new paragraph declaring that every violation of human

rights and fundamental freedoms concerned the United Nations as a whole. It would also invite the Secretary-General to notify the Members of any information he might receive in connexion with this question.

The Cuban amendment (A/AC.38/L.3), would inter alia, condemn the violation of human rights by Bulgaria, Hungary and Romania; consider their attitude as further evidence that these Governments were incapable of complying with their international obligations; decide that without modification in their attitudes their applications for membership in the United Nations should not be entertained; and suggest that the item should be placed on the agenda of the sixth session.

At the fifth meeting of the Ad Hoc Political Committe on 5 October, Australia introduced a revised draft resolution (A/AC.38/L.1/Rev.1) as amended by agreement with Bolivia and Cuba. The revised draft resolution incorporated the following changes: an additional paragraph was inserted at the beginning of the preamble, stating that the General Assembly considered that one of the purposes of the United Nations was to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms; a new paragraph 2 was added condemning the refusal of Bulgaria, Hungary and Romania to appoint representatives to the treaty commissions; a statement to the effect that the three Governments were indifferent to the sentiments of the world community was added to paragraph 3; a sixth paragraph was included, inviting the Secretary-General to notify the Members of any information he might receive in connexion with the question. At the same meeting, Bolivia and Cuba withdrew their respective amendments (A/AC.38/L.2; A/AC.38/L.3).

The representatives of, inter alia, the following countries supported either fully or in part the ideas embodied in the revised Australian draft: Australia, Bolivia, Brazil, Canada, Cuba, the Dominican Republic, El Salvador, Ecuador, France, Greece, Lebanon, Liberia, the Netherlands, Norway, the Philippines, Sweden, Thailand, Turkey, the Union of South Africa, the United Kingdom, the United States, Uruguay, Venezuela and Yugoslavia.

It was argued that Bulgaria, Hungary and Romania persistently refused to carry out the provisions for free elections agreed upon at Yalta. The three Governments, it was stated, had reorganized their judicial systems with the result that guarantees of justice had been ruthlessly destroyed, and judges, lawyers and the public had become the instruments of political power and oppression. Recent court trials in the three countries were in fact "staged" by the ruling political group and justice was administered by arbitrary arrest, privation and torture of the accused, and guilt was assumed and proclaimed from the outset, it was charged.

The Governments of the three States, it was stated, had made no valid refutation of the charges brought against them. They had refused to use the arbitration machinery provided in the Peace Treaties; they had refused to abide by the opinion of the International Court and they were continuing to violate the fundamental rights guaranteed to all peoples by the Charter. Any nation with a sense of its international responsibilities would have made every effort to clear itself of the grave charges[119] against it.

It was considered that there was little object in appointing a body to make further inquiries in the case, as there was no likelihood that, a fact-finding committee established by the United Nations would be permitted by Bulgaria, Hungary and Romania to discharge its functions effectively. A commission of inquiry would not be admitted to the three States concerned and would be forced to work on the basis of documentation alone. In such circumstances, the best procedure, as proposed in the Australian draft resolution, was to invite all States to report to the Secretary-General all evidence of further breaches of the treaties so that the free world would be informed of all developments.

It was emphasized that it was the duty of the General Assembly to condemn the States which continued to infringe individual liberties, and to continue to expose such violations. Accordingly, the Assembly could not, solely on the grounds that the accused parties had frustrated the arbitration procedures provided in the Peace Treaties, abandon the question under discussion. The Assembly must provide some means to make known to the world the facts on the substance of the charges brought against Bulgaria, Hungary and Romania. They could not be permitted to disregard individual rights indefinitely.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR opposed, the Australian draft. These representatives declared that they had maintained from the outset that there was no real basis for the charges brought against Bulgaria, Hungary and Romania and no justification for placing the

[1] See Y.U.N., 1948-49, pp. 316-27.

question before the General Assembly. They argued that a review of the case indicated that the charges brought against Bulgaria, Hungary and Romania had never been substantiated, and that they had been artificially invoked as the basis of a dispute to which the provisions of the Charter had been arbitrarily applied. Furthermore, the principle that the United Nations should not consider matters which were within the domestic jurisdiction of States must apply equally to all States, including Bulgaria, Hungary and Romania.

They stated that Bulgaria, Hungary and Romania had prosecuted spies and saboteurs whose activities jeopardized internal peace and stability; they had not merely brought to trial political dissidents or persons misled by their religious convictions. The trial procedures, to which vociferous objections had been raised by those who had initiated action against the three States, had been scrupulously fair: the accused had been condemned on the basis of complete and irrefutable evidence; the courts had complied with accepted legal standards; and the rights of the defendants had been adequately safeguarded.

They stated that the Constitutions of Hungary, Bulgaria and Romania provided full and adequate protection for human rights and fundamental freedoms, that all citizens were equal before the law and that all must bear the responsibility for their crimes, regardless of their rank or position. Therefore, the prosecution of persons who had sought to overthrow the existing Governments and had been engaged in subversive and criminal activities against the States, was not a violation of human rights but a sovereign right and a legal duty of the States concerned. They further stated that the Governments of Bulgaria, Hungary and Romania were fully complying with all provisions of the peace treaties, and especially the specific provision authorizing the outlawing of all fascist organizations and groups seeking to undermine the State. The failure of direct interference by the ruling circles of the United States and the United Kingdom in the internal affairs of the People's Democracies forced them to embark upon a campaign of slander and defamation of these Governments, by using alleged violations of the peace treaties as their pretexts.

These slanderous attacks, they maintained, were tantamount to a violation of their sovereign rights and an intervention in their domestic affairs. They were designed to disrupt the political and economic development of those regimes with a view to furthering the expansionist plans of the Anglo-American bloc.

The Assembly, they said, should not endorse baseless charges against Bulgaria, Hungary and Romania. It should reject the revised Australian draft and remove the item from its agenda.

The representative of Mexico declared that the Mexican Government felt that all countries were not in the same position when it was a question of the application of the principles of international law and the observance of human rights and fundamental freedoms. In the first place, it was a fact, he stated, that under the provisions of the Charter itself, certain States, permanent members of the Security Council, could paralyse the Council's activities and make it impossible for the United Nations to intervene in that and other matters; secondly, the observance of human rights and fundamental freedoms had not evolved on identical lines in all countries.

For those reasons, the Mexican delegation thought that account should be taken of Article 2, paragraph 7, of the Charter and was forced to consider that, for the time being, the question of the observance of human rights and fundamental freedoms still fell exclusively within the domestic jurisdiction of States. The General Assembly and the Security Council had therefore no competence in the matter. Consequently, Mexico he said, would vote against the last four paragraphs of the revised Australian draft resolution (for text, see below).

The representative of Yugoslavia stated that Bulgaria, Hungary and Romania had forcibly deported Yugoslav citizens and forced Yugoslavs, born in territories occupied by Bulgaria and Hungary, to adopt the nationalities of these countries. In 1948, Hungary had stopped payment of compensation for war damage as provided in the Peace Treaties; it likewise had suspended restitution of Yugoslav property seized during the war. The three countries also encouraged propaganda against Yugoslavia and were constantly creating border incidents. He declared that the Australian draft resolution did not deal with the most serious of the violations of which Bulgaria, Hungary and Romania were guilty. Nevertheless, one part stressed the need for a careful and thorough inquiry. His delegation would accordingly vote in favour of it.

The representatives of Saudi Arabia and Syria declared their intention of abstaining from voting on the Australian draft. Both considered that the draft resolution discussed presumptions rather than established facts. The representative of Saudi Arabia submitted that the Opinion of the International Court related more to procedural matters.

than to matters of substance. The representative of Syria, on the other hand, declared that he would vote for that part of the Australian draft relating to the advisory opinion of the Court. Syria, he explained, had always endeavored scrupulously to observe the clauses of international treaties to which it was a party.

During the general debate in the Committee, a number of representatives commented on the advisory opinions of the Court, some expressing agreement with the Court's opinions and others criticizing them. The representative of Uruguay, for example, declared that in his opinion the second phase of the advisory opinion of the Court raised "very serious questions involving the fate of the entire system of treaties for arbitration and the peaceful settlement of disputes". The majority opinion of the Court, he argued, might have the immediate consequence of making most of the treaties which in effect called for conciliation, arbitration and other methods of peaceful settlement optional in character. He considered that the majority opinion meant that, unless there was an express provision in the text of a treaty for arbitration, the court or commission in question could not be established and the obligation to arbitrate could not be fulfilled when one of the parties to the treaty refused to designate its representative to the court or commission or to co-operate in the establishment of such bodies. The representative of Cuba stated that he fully supported the position of the Uruguayan delegation "that the excessively literal interpretation given by the Court jeopardized all existing systems of international arbitration". The representative of the United States, while declaring that his Government would abide by the Court's opinions in letter and spirit, stated that his Government did not share the Court's view on question III and hoped that the decision of the dissenting judges in the second phase would ultimately become the law of the nations.

The representative of Bolivia also declared that his Government was "ready to bow to the opinion of the Court", but it regretted that the Court was "so circumspect in its search for agreement between the parties". Such an over-cautious attitude, he warned, would tend to stultify the whole system of collective negotiation.

The representative of Canada said that in the view of his delegation, the Assembly was bound by the provisions of the Charter concerning human rights to condemn the systematic attacks on individual freedoms which available evidence imputed to Bulgaria, Hungary and Romania. The Court's rulings, he stated, made it difficult, if not impossible, for the United Nations to prevent such attacks, or to assist the victims of oppression, since the accused parties obstinately refused to set in motion the machinery for an impartial investigation of the facts.

The representatives of the Byelorussian SSR, Poland and the USSR argued that the International Court of Justice had no competence to give an advisory opinion on the question, since Article 96 of the Charter authorized advisory opinions on legal questions only. They stated that the Court was not empowered to interpret and construe the provisions of the Peace Treaties; only the signatories were authorized to do so. They declared that there was nothing in the Peace Treaties which authorized the Court to advise on their interpretation or execution and that the Court itself had acknowledged that it was not competent to give an opinion on violations of those Treaties and that it had found no violation. They added that the matter submitted to the Court was not a legal question, but was an attempt, based on political considerations, to use the authority of the Court as a means of exerting political pressure on Bulgaria, Hungary and Romania. They stated, moreover, that the advisory opinion was illegal because it dealt with a non-existent dispute. In this connexion, the representative of the USSR explained that the relevant articles of the Peace Treaties required that one party to any dispute must be Bulgaria, Hungary and Romania, while the second party must be the United States, the United Kingdom and the USSR acting jointly. If such joint agreement could not be reached, no action could be taken under the Treaties. Since the USSR did not recognize the existence of grounds for claims against Bulgaria, Hungary and Romania, and since none of the three States was a party, the prerequisites for a dispute were lacking and no dispute could be said to exist.

At its sixth meeting on 5 October, the Ad Hoc Political Committee, after a paragraph-by-paragraph vote on the revised draft resolution (A/AC.38/L.1/Rev.1) submitted by Australia, as amended by agreement with Bolivia and Cuba, adopted the draft resolution as a whole, by 39 votes to 5, with 13 abstentions.

b. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

The report of the Ad Hoc Political Committee (A/1437) was considered by the General Assembly at its 302nd and 303rd plenary meetings on 3 November. Arguments both in favour of and

against the draft resolution adopted by the Committee similar to those advanced in the Committee were repeated in the plenary meetings of the Assembly.

Representatives of the following countries spoke in support of the draft resolution: Australia, Bolivia, Cuba, France, New Zealand, Turkey, the United Kingdom and the United States. They declared that the draft resolution was an attempt to deal with the situation created by the refusal of Bulgaria, Hungary and Romania to co-operate in the settlement of those disputes regarding the observance of hurrian rights in accordance with the procedures laid down in the Peace Treaties, and in accordance with procedures which the International Court of Justice held that they were obliged to carry out. Friendly relations among States, it was explained, depended upon respect for treaty obligations. What the General Assembly was confronted with was not merely a dispute arising out of a treaty between the parties to the treaty, but a wilful and flagrant refusal on the part of the accused Governments to settle their disputes by peaceful means in accordance with their treaty obligations.

The supporters of the draft resolution argued that it rightly declared that the conduct of the three Governments in this matter was such as to indicate that they were aware of their responsibility for the violation of their treaty obligations and were indifferent to the sentiments of the world community. No other conclusion, they submitted, could be drawn from the conduct of the accused Governments. The Governments concerned avoided all serious discussion before the Assembly's committees, or under the treaty procedures. They defended themselves only in propaganda statements and by irrelevant counter-charges and were unwilling to defend their record before any international tribunal and to be judged in any impartial forum in accordance with the law and the evidence.

Some of the representatives supporting the draft resolution, in particular the representative of Cuba, regretted that the resolution did not go further. He felt that in this case the General Assembly was acting in a very cautious and circumspect manner. In his opinion, the argument that the safeguarding of human rights was a domestic concern of States was invalid; no State based on a free and respected citizenry could hide behind such an argument in order to avoid its fundamental duties to its subjects. Attacks upon individual freedoms, he said, wherever they might occur, went beyond national frontiers and assumed a world-wide character. The Members of the United Nations, he argued, were committed under Article 55 c of the Charter to promote universal respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. It was therefore not optional but mandatory for the General Assembly to intervene firmly in all cases of flagrant and systematic violations of fundamental human freedoms.

The representatives of Czechoslovakia, Poland and the USSR spoke against the Committee's draft resolution. They maintained that the General Assembly was not competent to ask for the advisory opinion of the International Court of Justice on the matter because it was a matter exclusively within the domestic jurisdiction of Bulgaria, Hungary and Romania. Nor was the Court competent to discuss the matter without the consent of the Governments of the States directly concerned. They stated that the trials held in Bulgaria, Hungary and Romania, which were used by the United States and the United Kingdom as a pretext for attempted interference in the domestic affairs of these States, had shown clearly that the accused persons were leaders or members of anti-democratic and anti-popular organizations whose purpose was to deprive the peoples of those countries of their democratic rights.

No one, they submitted, had been able to substantiate the allegation that fundamental rights had been violated by Bulgaria, Hungary and Romania. All statements to that effect had been mere accusations, and empty accusations at that. They went on to state that the real reason why the question was raised was the desire of the United States and the United Kingdom to divert attention from the revelations concerning Anglo-American espionage and subversion in Bulgaria, Hungary and Romania and to use the United Nations in order to exert political pressure on those countries.

The draft resolution, they contended, was unacceptable both in its substance and in its wording. It was not a compromise as stated by the representative of the United States, but a diktat of a coerced majority. They urged the General Assembly to reject the draft resolution and thereby to discontinue the consideration of an item which had long been an obstacle in the efforts of the Assembly to develop friendly relations among nations, and which had contributed to preventing the United Nations from becoming a centre for harmonizing the actions of nations in the attainment of common ends.

The representative of Iraq declared that his delegation would abstain from voting on the proposal, not because of lack of sympathy for its underlying aims and principles but because his delegation felt that any observation of human rights should be dealt with universally. His delegation, he went on to say, could not think of human rights being observed in Bulgaria, Hungary and Romania and forgotten in Palestine and Africa, especially in North Africa.

A motion by the representative of Greece for closure of the debate was adopted by 32 votes to 10, with 9 abstentions. The Committee's draft resolution was then voted upon, first by paragraphs and then as a whole. It was adopted as a whole by 40 votes to 5, with 12 abstentions.

The representative of the Ukrainian SSR, in explaining his negative vote, stated that the resolution undermined the prestige of the United Nations and the confidence in it of the peoples of the world. His Government did not recognize the resolution, which he said, was a flagrant violation of the Charter and of international law.

The resolution (385(V)) adopted read as follows:

The General Assembly,

Considering that one of the purposes of the United Nations is to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Having regard to General Assembly resolutions 272(III) and 294(IV) concerning the question of the observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms, and to its decision in the latter resolution to submit certain questions to the International Court of Justice for an advisory opinion,

1. Takes note of the advisory opinions delivered by the International Court of Justice on 30 March 1950 and 18 July 1950 to the effect that:

(a) The diplomatic exchanges between Bulgaria, Hungary and Romania on the one hand, and certain Allied and Associated Powers signatories to the Treaties of Peace on the other, concerning the implementation of article 2 of the Treaties with Bulgaria and Hungary and article 3 of the Treaty with Romania, disclose disputes to the provisions for the settlement of disputes contained in article 36 of the Treaty of Peace with Bulgaria, article 40 of the Treaty of Peace with Hungary, and article 38 of the Treaty of Peace with Romania;

(b) The Governments of Bulgaria, Hungary and Romania are obligated to carry out the provisions of those articles of the Treaties of Peace which relate to the settlement of disputes, including the provisions for the appointment of their representatives to the Treaty Commissions;

(c) If one party fails to appoint a representative to a Treaty Commission under the Treaties of Peace with Bulgaria, Hungary and Romania where that party is obligated to appoint a representative to the Treaty Commission, the Secretary-General of the United Nations is not authorized to appoint the third member of the Commission upon the request of the other party to a dispute;

2. Condemns the wilful refusal of the Governments of Bulgaria, Hungary and Romania to fulfil their obligation under the provisions of the Treaties of Peace to appoint representatives to the Treaty Commissions, which obligation has been confirmed by the International Court of Justice;

3. Is of the opinion that the conduct of the Governments of Bulgaria, Hungary and Romania in this matter is such as to indicate that they are aware of breaches being committed of those articles of the Treaties of Peace under which they are obligated to secure the enjoyment of human rights and fundamental freedoms in their countries; and that they are callously indifferent to the sentiments of the world community;

4. Notes with anxiety the continuance of serious accusations on these matters against the Governments of Bulgaria, Hungary and Romania, and that the three Governments have made no satisfactory refutation of these accusations;

5. Invites Members of the United Nations, and in particular those which are parties to the Treaties of Peace with Bulgaria, Hungary and Romania, to submit to the Secretary-General all evidence which they now hold or which may become available in future in relation to this question;

6. Likewise invites the Secretary-General to notify the Members of the United Nations of any information he may receive in connection with this question.

K. TREATMENT OF PEOPLE OF INDIAN ORIGIN IN THE UNION OF SOUTH AFRICA

The General Assembly, on 14 May 1949, adopted resolution 265(III)[120] inviting India, Pakistan and the Union of South Africa to hold a round table discussion on the question of the treatment of people of Indian origin in South Africa. Negotiations for holding such a discussion, however, fell through, and India in a letter (A/1289) dated 10 July 1950 requested the Secretary-General to place this question on the agenda of the Assembly's fifth session.

A memorandum (A/1357 & Corr.1 & 2) on the developments subsequent to General Assembly resolution 265(III) was later submitted by India. In this memorandum, India stated that certain preliminary talks were held between the delegates

[120] See Y.U.N., 1948-49, p. 310.

of India, Pakistan and the Union of South Africa in Cape Town in February 1950, when it was agreed that a round table conference should be held. India declared that it found it impossible to attend the proposed conference because it charged, among other things, the Group Areas Act which the Union of South Africa contemplated at the time involved further discrimination against South African nationals of Indian origin. Pakistan also withdrew for similar reasons. Accordingly, India once more brought the matter before the General Assembly.

1. Consideration in the Ad Hoc Political Committee

The General Assembly referred the question to the Ad Hoc Political Committee which considered it at its 41st to 48th meetings, 14-18 and 20 November.

a. QUESTION OF THE COMPETENCE OF THE UNITED NATIONS

Much of the discussion in the Committee centred in the question of United Nations competence in this matter. At the outset of the discussion, the representative of the Union of South Africa, speaking on a point of order, raised this question. He declared that, according to international law, the relationship between a State and its nationals, including the treatment of those nationals, was a matter exclusively of domestic jurisdiction, which brooked of no intervention either by another State or by any organization and was subject only to treaty obligations under which the State might have waived its inherent right of sovereignty. The United Nations, he argued, had no competence to intervene in the item before the Committee as it related to the treatment of South African nationals.

The representative of India stated that, under cover of a point of order, the representative of South Africa was raising a question of substance in connexion with the competence of the United Nations. The Indian representative felt that the question of competence, or lack of competence, could appropriately be raised only when the Committee was fully cognizant of the subject matter.

Other representatives, including those of Lebanon and Syria, considered that the question of competence should be deferred by the Committee until all of the facts had been presented to it by both parties concerned.

The representative of Cuba expressed the view that the Ad Hoc Political Committee could not vote on competence, generally speaking, because that question had been decided by the General Committee and by the General Assembly which had approved the report of the General Committee. The item submitted by India was therefore definitely within the competence of the Ad Hoc Political Committee, to which it was referred by the Assembly, and, if any doubts in connexion with competence should persist, it was for the General Assembly rather than the Ad Hoc Political Committee to make a final decision.

At the 41st meeting of the Ad Hoc Political Committee on 14 November, the Chairman ruled that the discussion would proceed on both the question of competence and the substance of the item, and that a vote would be taken on the question of competence prior to voting on any proposals submitted.

In addition to the representative of India, the representatives of the following States, among others, considered the United Nations competent to deal with the item under consideration: Denmark, Ecuador, Iraq, Lebanon, Mexico, Pakistan, the Philippines, the United States, Uruguay and Yugoslavia. In support of their stand they advanced the following arguments:

Matters which, by their nature, could assume an international complexion or give rise to international repercussions, especially if they threatened to impair relations between States or jeopardize international peace and security, ceased to be essentially within the domestic jurisdiction of States. The policy of the South African Government, it was stated, had had that effect on the relations between that country and India and Pakistan and, more broadly, on the general situation of peace and security.

South Africa had assumed certain obligations towards India under the direct agreements of 1927 and 1932 and under the United Nations Charter.

There were many articles in the United Nations Charter, such as Article 1, paragraph 3, Article 13, sub-paragraph 1b, and Articles 55 c, 5.6 and 62, which stressed the paramount importance of human rights. The Preamble itself, which had the same legal force as the rest of the Charter, affirmed faith in fundamental human rights. The statement of purposes in Article 1 and the relevant parts of the Preamble were sufficient to establish the competence of the United Nations to deal with the matter and to make recommendations, in accordance with Articles 10 and 14 of the Charter.

The Charter clearly bound Members to promote human rights and fundamental freedoms without distinction as to race, sex, language or religion, and Article 2, paragraph 7, referring to domestic jurisdiction, could not be used as a basis for repudiation of such obligations.

Although the Universal Declaration of Human Rights, adopted by the General Assembly in December 1948, had no legal binding force on Members of the United Nations, nevertheless, it could not be denied that the Declaration had the moral force of a recommendation of the Assembly. It imposed the moral obligation upon States to promote respect for human rights through education and, by progressive measures, national and international, to obtain their effective observance by the peoples of their territories. When a Member State deliberately flouted the Declaration and the Charter by adopting legislation violating human rights and reversing the trend toward the larger freedom of all peoples, the General Assembly was fully entitled to express concern regarding its conduct. Intervention by one State in the affairs of another was a real danger; intervention by the collective body of the United Nations for the sake of freedom and in accordance with the principles of the Charter was appropriate international action.

The problem did not only concern South Africa and the Indians in that country, but raised a serious question, that of relations between Asian peoples and Western peoples, between coloured and non-coloured peoples. Consequently, it was of great international importance. It would not be an exaggeration to say that a satisfactory solution of the question would have considerable influence on future relations between the East and West and, more immediately, on the situation in Asia. Unless the people of Korea, of Indochina and other parts of Asia received an assurance that the United Nations would defend the principle of human equality and the ideal of human brotherhood, its efforts in that field would be largely in vain.

The rigid interpretation of Article 2, paragraph 7, would result in nullification of the Charter, stultification of any action of the General Assembly and paralysis of the work of any organ of the United Nations.

The problem was closely bound up with the question of friendly relations between peoples, and with the question of international peace and security. For that reason it was not Article 2, paragraph 7, of the Charter which was operative, but Article 10. Article 10 authorized the General Assembly to "discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12" to "make recommendations to the Members of the United Nations or to the Security Council, or to both, on any such questions or matters". Under that Article, the General Assembly and the Ad Hoc Political Committee were fully empowered to discuss the question of the treatment of Indians settled in South Africa.

The representative of the Union of South Africa maintained that the United Nations was not competent to formulate recommendations on the substance of the matter. He was supported in this contention by, among others, the representatives of Australia and Greece.

These representatives argued that the Charter provided no evidence whatsoever to support the intervention of the United Nations in a subject such as that before the Committee. The item related to the treatment of South African nationals and the United Nations had no competence to intervene in a matter which was within the exclusive domestic jurisdiction of the Union Government. Article 2, paragraph 7, of the Charter prevented the United Nations from dealing with such matters. The persons in question were South African citizens and, consequently, were within the sole jurisdiction of the South African Government. Their status and rights were therefore matters solely for that Government.

It was clear that there were no relevant treaty obligations in virtue of which the question of the treatment of people of Indian origin in the Union of South Africa could be regarded as a matter of international concern. The Cape Town Agreements of 1927 and 1932, defining the status of South African Indians, concerned only the domestic affairs of the Union of South Africa, and could not therefore become a matter for international action under the Charter.

There was danger that unless the question of jurisdiction were satisfactorily decided, the rights and obligations of the Member States which derived from their status as sovereign States would be continually disputed. If that process were not checked, the small nations, which did not possess the right of veto, would ultimately be led toward the total abdication of their sovereign rights. Any failure to observe the principle of non-intervention in the domestic affairs of States carried with

it a threat to the Organization itself, since one of the main purposes of the United Nations was to achieve international co-operation, and a policy of intervention or interference would have the effect of destroying rather than promoting that co-operation. The discussions at San Francisco constituted clear evidence that the representatives of the various States would either not have agreed to the enlargement of the functions and powers of the Organization—particularly in regard to economic and social matters—or they would have refused to subscribe to the Charter unless it had contained the over-riding protection afforded by Article 2, paragraph 7.

Articles 10 and 14 as well as all other Articles of the Charter were governed by Article 2, paragraph 7. It had been argued that Articles 55 and 56 clearly obliged any Member State to carry out the human rights provisions in spite of Article 2, paragraph 7. In this respect, the representative of South Africa recalled that, in order to allay any misgivings as to whether the obligation of Article 56 impinged upon the protection afforded by Article 2, paragraph 7, the framers of the Charter had recorded their agreement that "nothing contained in Chapter IX . . . can be construed as giving authority to the Organization to intervene in the domestic affairs of Member States".[121] It was therefore inappropriate to suggest that the protection which had been designed specifically to prevent any such conclusion was non-existent.

Those members of the Committee who felt that human rights and fundamental freedoms were matters of such international concern as to be removed beyond the sphere of domestic jurisdiction should, to be consistent, be prepared to apply the same argument to other matters mentioned in Article 55—higher standards of living, full employment, and so on. Those Members should therefore consider whether they were prepared to be brought to account before the United Nations on the allegation of another State that they had failed to give effect to the provisions of Article 55 a and Article 55 b.

The representative of Australia stated that the members of the Committee should realize that if the United Nations thought it could deal with the question of the treatment of people of Indian origin in the Union of South Africa, basing its competence either on racial origin or on the general principle of human rights, that would imply that the United Nations could intervene in what the Australian delegation regarded as the domestic affairs of other countries. Thus, if any State with racial or religious minorities within its borders were accused by another State of ill-treating those minorities or of depriving them of their civic, religious or other rights, it would have to defend before the Organization any of the measures it had adopted with regard to those populations. Any such assumption of functions by the United Nations would be unwise as well as illegitimate. Such complaints, even if justified, had much better be settled by direct negotiation between the Governments themselves than by the United Nations.

If India, Pakistan or any other country were not satisfied with the treatment given to South African nationals, the Government concerned should attempt to settle the matter through the normal diplomatic channels rather than by applying to the United Nations. Recourse to the United Nations could not, and should not, replace direct negotiations between the States concerned.

The representative of Greece stated that the duty of the General Assembly was to facilitate understanding between Member States and the peaceful settlement of disputes, and not to pass judgment. In any case, the future relations between East and West could not be improved by condemnation, but only by promoting conciliatory measures. He also declared that it was inadmissible for the Organization to pass judgment on a Member State which had contributed to the United Nations forces in Korea and whose airmen were giving their lives for the ideals of the United Nations.

The representatives of France and Belgium declared their intention of abstaining on the matter.

The representative of France recalled that the French delegation had abstained from voting on the question of competence in 1949 and pointed out that no new circumstances had arisen to alter his delegation's views. It still could not understand how the racial origin of the persons concerned could justify United Nations interference in the affairs of the Member State in whose territory they were found. Furthermore, little light had been shed on the provisions of the agreement concluded by the parties concerned with regard to the rights of persons of Indian origin.

The representative of Belgium stated that as long as the question of competence had not been elucidated in a precise manner, his delegation would be unable to adopt any stand in the General Assembly on the substance of the matter.

[121] See Documents of the United Nations Conference on International Organization (San Francisco, 1945), Vol. 10, Commission II, doc. 861, par. 10.

The Ad Hoc Political Committee, at its 46th meeting on 18 November, voted on a Syrian proposal (A/AC38/L.40) which stated that the Committee was competent to consider and vote on such proposals as had been submitted on the question. The proposal was adopted by the Committee by a roll-call vote of 35 to 3, with 17 abstentions.

The representative of Turkey explained that he had abstained in the vote because his delegation had wished to avoid a vote on the question of competence. The Syrian proposal, he felt, left unresolved the larger problem of competence raised by the Union of South Africa regarding the general juridical implications of the Charter limiting the legal jurisdiction of Member States in questions of human rights. A jurisprudence on that delicate subject, he explained, would be formulated progressively over a period of years as a result of studies by experts and the practice established with regard to specific questions. The Turkish delegation, he went on to say, had wished to avoid taking a general legal decision and had feared that its vote in favour of the Syrian proposal might have been interpreted as a final judgment on the general matter of competence, although it considered the Assembly competent on the specific question of the treatment of people of Indian origin in South Africa.

The representative of the United Kingdom stated that he had abstained in the vote because his delegation considered that the International Court of Justice and not the General Assembly should determine the question of competence. The representative of the Netherlands, who had abstained, also considered that the Committee could not take a decision on such a question without an opinion from the Court, which, he stated, should have been consulted.

b. STATEMENT BY INDIA

In presenting India's case to the Ad Hoc Political Committee, the representative of India declared that nearly 300,000 persons of Indian origin lived in the Union of South Africa. Those persons had been brought into South Africa under definite agreements between the Governments of the two countries to the effect that they would have the same rights and privileges and be subject to the same laws as other persons residing in South Africa. Those pledges had not been fulfilled. Except in the Cape Province, these South African nationals of Indian origin had no right of parliamentary or municipal franchise; their right to own or hold property was restricted to certain areas; they were barred from public office and from apprenticeship or skilled labour in factories; they were denied free movement from one province to another; and they could not freely enter universities and other educational institutions. They were discriminated against in the matter of entry into restaurants, theatres, cinemas, parks, motor vehicles and trains.

In 1946, with the adoption of the Asiatic Land Tenure and Indian Representation Act, further segregation was imposed in violation of the agreements of 1927 and 1932 between India and the Union of South Africa. This led India to bring a complaint before the United Nations in 1946. The General Assembly in December 1946 urged South Africa to take measures to ensure treatment of its Indians "in conformity with the international obligations under the agreements concluded between the two Governments and the relevant provisions of the Charter". At its 1947 session, the Assembly approved, but without the required two-thirds majority, a resolution reaffirming its 1946 decision.

In 1948, the new South African Government repealed the limited franchise rights given to Indians under the Asiatic Land Tenure and Indian Representation Act. India once again brought the question before the General Assembly, which on 14 May 1949, invited the two Governments to hold a round table conference, "taking into consideration the purposes and principles of the Charter . . . and the Declaration of Human Rights".

In the meantime, territorial segregation of Indians was extended to trade and business under the Asiatic Land Tenure (Amendment) Act of 1949. Nevertheless, on 4 July 1949 India asked South Africa to suggest a time and place for the round table conference. On 9 July it protested against the 1949 Land Tenure Act as a further violation of the Charter and the Declaration of Human Rights. On 13 July South Africa replied, inter alia, that it could accept no compromise on the principle of domestic jurisdiction. On 21 July India agreed to preliminary negotiations, but South Africa on 14 September reiterated its basic position. India, on 22 September, protested against other measures of discrimination, noting that they were not conducive to a favourable atmosphere for the proposed round table conference. It urged the deferment or suspension of those measures. In February 1950, preliminary talks were held between the two Governments.

When the Indian community in South Africa learned the details of the Group Areas Act, various organizations of the Indian community there appealed to India to withdraw from the proposed round table conference. India maintained a conciliatory approach. It urged postponement of action on the bill pending the results of the conference. In reply, the Union Prime Minister limited the second reading of the bill to 22 hours and all stages to 52 hours, and stated that the conference could not be held before 15 September by which time the bill would have become law.

The withdrawal of the Indian Commissioner from the Union of South Africa and India's imposition of trade sanctions were not among the causes of the failure to hold the round table conference. The High Commissioner, the representative of India stated, had been withdrawn three years before the conference was even proposed, and so could not be regarded as a cause of the failure. The trade ban was imposed as a protest against the Asiatic Land Tenure and Indian Representation Act of 1946. Further, India had made it clear in a telegram sent on 10 February 1950, that it was ready to lift the trade ban if South Africa on its part suspended the action which had led to it. Such an attitude could, therefore, not be regarded as an attempt to wreck the prospects of the conference.

Only when all attempts to postpone action on the Group Areas Act failed, did India inform the Union, on 6 June, that it would not take part in the conference. In the circumstances, India felt justified in withdrawing from it.

The policy underlying the Group Areas Act, India explained, was that of apartheid or total segregation, and its effect was to perpetuate racial arrogance. The Act divided the Union's population into three racial groups, allotting to each a "group area", in which only members of that particular race, or companies composed of such individuals, could occupy land or premises. Of the three racial groups, white, native and coloured, Indians came under the last, but they were soon to be constituted into a separate group. They would then be unable to acquire property in a non-Indian group area. Those holding such property in a white group area, would be forced to sell it to a white person, or hold it until death when it would be sold, and only the net proceeds would be reserved to the heirs. An Indian company holding such property would have to sell it to a white person within ten years, failing which it would be compulsorily sold by the Minister of the Interior. All residential accomodations and business premises occupied by Indians in a white area would have to be vacated.

Taking up the question of competence, the representative of India stated that in its opinion and in the opinion of the countries which supported its interpretation, the conduct of the Union of South Africa constituted a violation of the agreements of 1927 and 1932 between the two Governments and consequently could not be treated merely as a domestic matter. Moreover, that action constituted a violation of the principles of the Charter relating to human rights and fundamental freedoms and could not therefore be considered as essentially a matter of domestic jurisdiction. Also, the treatment of Indians in South Africa had affected the friendly relations between two Member States. During previous sessions in 1946, 1947 and 1949, the various organs of the United Nations which had discussed the question of competence had always decided in favour of the Indian view.

The representative of India then drew attention to the grave implications of the Union's policy, which, he stated, imposed a permanent stigma of inferiority on almost half the human race, constituted a breach of solemn agreements with India, an open violation of the Universal Declaration of Human Rights and a defiance of the Assembly's decisions.

c. STATEMENT BY SOUTH AFRICA

The representative of the Union of South Africa stated that the United Nations had no competence to intervene in a matter which was essentially within the domestic jurisdiction of South Africa. He pointed out that Article 2, paragraph 1, of the Charter, guaranteed the sovereign equality of all Member States and accorded them the rights inherent in full sovereignty. Article 2, paragraph 7, specifically barred intervention in matters "essentially within the jurisdiction of any State".

Nor could he agree that the Universal Declaration of Human Rights warranted intervention in matters that would otherwise be within the domestic jurisdiction of States. The Declaration was still very much a counsel of perfection and a declaration of ideals; it did not create any legal obligations.

Human rights, further, were left uncertain, vague and nebulous concepts in the Charter, and Members could not therefore be said to have undertaken any obligations in respect of them.

There was no analogy between this question and the one relating to observance of human rights

in Bulgaria, Hungary and Romania.[122] In the latter case, there were specific provisions in the Peace Treaties with those countries which could justify United Nations intervention. Here, there were no treaty obligations which would make the treatment of Indians in South Africa a matter of international concern. Nor was there any analogy between the item before the Committee and the Assembly's action on the Soviet wives of foreign nationals in the USSR.[123] The latter case involved persons who were not USSR nationals. The United Nations was therefore not attempting, in that case, to interfere with the way a State treated its own nationals.

The contention that South Africa's agreement to enter into preliminary talks with India and Pakistan constituted a tacit admission of United Nations competence was unfounded. In communicating with India and Pakistan, South Africa made it clear that its action was without prejudice to its views on the question of jurisdiction and also that its agreement to hold the preliminary talks was the result of discussion in London in April 1949 between the Prime Ministers of South Africa and India at a conference of Commonwealth Premiers.

The argument that there were treaty arrangements between South Africa and India, apart from the Charter, which made the question one for international intervention, was likewise completely unfounded. The conclusions reached at the conference between the two Governments in 1926 on the question of Indians in South Africa were announced on 21 February 1927, both in India and South Africa in two somewhat disjointed documents, which contained policy statements by the two Governments in the widest and most general terms. No treaty was drawn up and therefore no treaty obligations existed. Treaty obligations in such wide and general terms would have enabled India to intervene, as of right, against practically every step taken by South Africa.

South Africa considered that the General Assembly had exceeded its powers in taking up the Indian complaint and that therefore it was under no obligation to give effect to the Assembly's recommendation to hold a round table conference on the subject. Nevertheless, South Africa had attempted to comply with the wishes of the United Nations without prejudice to its position on the question of jurisdiction. It therefore sought an opportunity to bring about a meeting of the three Governments concerned as envisaged by the Assembly. Such an opportunity presented itself during the Conference of the Commonwealth Prime Ministers in London in April 1949, when an informal talk between the Prime Ministers of India and South Africa encouraged the Union Government to hope that further official talks might lead the way to a solution of the Indian problem acceptable to South Africa.

The representative of South Africa observed that India withdrew its High Commissioner from South Africa some years previously and also unilaterally imposed trade sanctions on South Africa. South Africa was prepared to waive its demand that those disabilities should be removed before it entered into the proposed round table conference. Immediately prior to the Cape Town talks in February 1950, Pakistan made a notable contribution by deciding to remove the trade sanctions which were then in force against the Union. But India remained adamant.

India agreed to the holding of the conference while the 1946 Act as amended was in force. The Group Areas Act admittedly did not discriminate against Indians as was alleged of the 1946 Act; for the former applied to all sections of the population of the Union, including Europeans. It was difficult to understand why passing this Act should be adduced as a reason for not participating in the proposed conference when no such objection had been made in regard to the 1946 Act which dealt specifically with Asiatics.

With respect to the Group Areas Act, South Africa had assured India and Pakistan that no group area would be declared before December 1950. If the conference took place as South Africa had suggested, between 15 September and 15 November, it would have preceded any declaration of any group area under the Act. South Africa also informed the two countries concerned that any agreed solution at the conference which entailed amending its legislation would be acted on appropriately and the necessary amendments introduced in Parliament. Thus no law, no matter when passed, curbed the scope of the conference discussions. It was therefore clear that India was responsible for the conference not taking place.

The charge that South Africa denied certain of its citizens fundamental rights and freedoms was also unfounded. No person, whatever his race, colour or religion, was denied the basic rights and fundamental freedoms long recognized in international law and envisaged in the Charter: freedom of conscience, religion and speech.

The very nature of the unique problem with which it was confronted admittedly compelled the

[122] see pp. 385-97.
[123] See Y.U.N., 1948-49, p. 333.

Union to differentiate between the various racial groups but that did not constitute a violation of the human rights and fundamental liberties enunciated in the Charter.

The representative of South Africa stated that his Government was spending more per capita on developing social services among non-Europeans than any other Power in Africa. Describing other measures such as those prohibiting land alienation, controlling the supply of liquor, and protection against want, he pointed out that there was an increase in the indigenous population in South Africa, whereas in many other countries it had almost died out. Indigenous peoples of neighbouring territories were irresistibly drawn towards South Africa by the better living conditions it offered.

He concluded by stating that in the present troubled times the best solution to the problem would be for India to withdraw its complaint and for a round table conference, the door to which was still open, to be held.

d. CONSIDERATION OF DRAFT RESOLUTIONS

At the 41st meeting of the Ad Hoc Political Committee on 14 November, a joint draft resolution (A/AC38/L.33) was submitted by Burma, India, Indonesia and Iraq. It expressed the opinion that "The Group Areas Act" of the Union of South Africa entailed contravention of the purposes and principles of the Charter of the United Nations and the Declaration of Human Rights, and noted with regret that this Act and the policy on which it was based had prejudiced and rendered fruitless the recommendation contained in resolution 265(III), inviting India, Pakistan and the Union of South Africa to enter into discussions at a round table conference. The draft resolution also recommended South Africa to take all steps necessary speedily to bring its treatment of people of Indian origin into conformity with the purposes and principles of the Charter and the Declaration of Human Rights, bearing in mind the vital importance of those principles to the securing of international peace as well as the strengthening of domestic forces throughout the world.

Besides the sponsors the representatives of Cuba, Haiti, Lebanon, Pakistan and Yugoslavia, among others, supported the four-Power draft resolution. These representatives considered that the United Nations could not remain indifferent to the situation created by the adoption of measures of racial discrimination by a Member which had signed the Charter and accepted the Universal Declaration of Human Rights. They stated that the sole purpose of the joint draft was to find a way out of the untenable situation imposed upon South African nationals of Indian origin.

It was argued that the treatment accorded in the Union of South Africa not only to Indians, but to all non-whites, was a definite threat to international peace and security. At a time when the United Nations was engaged in assisting the peoples of Libya and other areas in their progress towards self-government, the General Assembly could not permit a Member to take measures as retrogressive as the Group Areas Act. The adoption of the joint draft would show that the United Nations continued to support the promotion of human rights and the principle of racial equality.

No compromise, they stated, was possible where the principles of social justice were involved, just as none was possible where international peace and security were threatened.

In addition to South Africa, the representatives of Australia and the Netherlands, among others,, voiced their objection to the four-Power draft. The representative of Australia maintained that it went much further than the resolutions previously adopted by the General Assembly. The intervention of the United Nations in the domestic affairs of a Member State was unwise as well as illegitimate, he stated. He, as well as the representative of the Netherlands, maintained that such a complaint had much better be settled by direct negotiation between the Governments themselves than by the United Nations.

The General Assembly, the representative of the Netherlands stated also, could not improve the situation;[1] to bring about open disagreement with South Africa was certainly not a constructive approach. He declared the four-Power draft resolution legally doubtful and politically harmful. It would, he said, be irresponsible to condemn the policy followed by South Africa without a full knowledge of the facts and without making any constructive suggestions as to what that State should do. The only proper course was for the Assembly to call upon the parties concerned once again to discuss their differences at a round table conference.

The representatives of Belgium, France, Turkey and the United States declared their intention of abstaining in the vote on the four-Power draft as they considered that its objective was not the most practical course to follow. The four-Power draft, they stated, did not envisage the resumption of conversations among the countries concerned, yet

these remained the only way of smoothing out the differences and facilitating the application of the principles of the Charter and the Universal Declaration of Human Rights.

At its 43rd meeting on 15 November, the Committee decided, by 25 votes to 4, with 20 abstentions, that the text of "The Group Areas Act" of the Union of South Africa should be circulated by the Secretariat. It was circulated as document A/AC.38/L.34.

At the 44th meeting of the Ad Hoc Political Committee on 16 November, a joint draft resolution (A/AC38/L.35) was submitted by Brazil, Bolivia, Denmark, Norway and Sweden. It recommended that India, Pakistan and the Union of South Africa should proceed in accordance with resolution 265(III), with the holding of a round table conference on the basis of their agreed agenda and, in the event of failure to reach an agreement within a reasonable time, they should agree on an individual to assist them in carrying through appropriate negotiations. It also called on the Governments concerned to refrain from taking any steps which would prejudice the success of their negotiations.

In addition to its sponsors, the representatives of Israel, France, the Netherlands, Turkey and the United States, among others, supported the five-Power draft. These representatives thought that it would be preferable if the General Assembly did not, at the present time, pass any definite judgment on the substance of the complaint made by India against the Union of South Africa.

They stated that the idea of racial equality was perhaps the greatest spiritual achievement of the twentieth century, and the question of the treatment of races by responsible Governments was becoming a matter of concern to the world community and consequently, to some extent, to the United Nations. It was therefore natural that a nation which felt that a group of people with which it had close ties was being unjustly treated should want to appeal to world opinion.

The problem under discussion, however, was one of great complexity, which was likely to lead to international complications. It was the duty of the United Nations to help to bring about a negotiated settlement while it was still possible. In fact, all possibilities of effecting a negotiated agreement should be exhausted before any further measures were taken. It was doubtful whether a judgment expressed by the United Nations at the present stage would be in the best interests of the group of people concerned.

The supporters of the five-Power draft were fully aware that negotiations might break down again, and provision for such an eventuality had been made in the draft resolution. All were agreed in hoping to find a solution for the problem acceptable to all parties. Any hope for a solution at all in the foreseeable future would have to be on the basis of an agreement by the parties concerned. The five-Power draft was recommended to the Committee as offering such a solution, and an appeal was made to the parties to accept it in the same spirit of conciliation in which it was put forward.

The representatives of South Africa and Indonesia expressed their objection to the five-Power draft. The representative of South Africa stated that because of the unshakable attitude adopted by his Government on the question of competence, his delegation could not support the draft.

The representative of Indonesia considered that the draft provided no solution to the problem before the Committee. Operative paragraph 1 of the draft, he said, proposed the holding of a round table conference; but in the existing circumstances it was impossible to hold such a conference. Moreover, the draft would call upon the Governments concerned to refrain from taking any steps which would prejudice the success of their negotiations; but steps had already been taken which prevented any agreement from being reached by negotiation.

The representatives of Chile and Iraq advocated the adoption of both the four-Power draft (A/AC.38/L.33) and the five-Power draft (A/AC.38/L.35) because in their opinion, the two proposals were not contradictory, but complementary. One would condemn the Group Areas Act and the other would invite the countries concerned to hold a round table conference in order to find a solution to the problem.

At the 45th meeting on 17 November, an amendment (A/AC.38/L.36) to the four-Power joint draft resolution (A/AC38/L.33) was submitted by Cuba. The representative of Cuba stated that since the policy of apartheid constituted the crux of the matter, and since it was the duty of the United Nations to oppress such a policy, his delegation wished to submit the amendment which proposed the insertion between the third and fourth paragraphs of the preamble a clause to the effect that the policy of racial segregation (apartheid) was necessarily based on the doctrines of racial discrimination. At the 47th meeting, the representative of Cuba declared that, should the Committee decide to vote first on the five-Power joint draft resolution (A/AC.38/-

L.35), the Cuban amendment should also be considered as an amendment to that draft resolution.

Also at the 45th meeting, an amendment (A/AC.38/L.38) was submitted by the Philippines to the five-Power joint draft resolution (A/AC.38/L.35) to include a reference in the preamble to the Charter and the Declaration of Human Rights and an addition to paragraph 3 calling for suspension of the enforcement of "The Group Areas Act" pending the conclusion of the negotiations. The amendment was, however, withdrawn at the 46th meeting on 18 November in favour of a new joint draft amendment (A/AC-38/L.39) embodying the Philippine amendment. This new amendment to the five-Power joint draft resolution (A/AC.38/L.35) was submitted jointly by Ecuador, Mexico, the Philippines and Uruguay. It provided for:

(a) the insertion of an additional paragraph to the preamble — calling the Assembly's attention to resolution 103(I) of 19 November 1946 against racial persecution and discrimination, and to resolution 217 (III)[124] of 10 December 1948 relating to the Universal Declaration of Human Rights;

(b) the stipulation that the Governments concerned bear in mind the provisions of the Charter and the Universal Declaration of Human Rights when they held the proposed round table conference;

(c) the stipulation, inter alia, that the proposed round table conference be held within a reasonable time, and further that in the event the Governments concerned were unable to come to an agreement on the designation of an individual to assist the parties in carrying through appropriate negotiations, the Secretary-General be authorized, at the request of any of the parties, to appoint the individual;

(d) calling upon South Africa to refrain from implementing or enforcing the Group Areas Act while negotiations were being conducted; and

(e) the decision to retain this item in the agenda of the Assembly's next regular session.

At the 47th meeting on 20 November, the representative of Brazil, on behalf of the sponsors of the five-Power joint draft resolution (A/AC.38/L.35), accepted all the amendments (A/AC.38/L.39) proposed by Ecuador, Mexico, the Philippines and Uruguay, except the amendment relating to the Group Areas Act. At the same meeting, the following amendments were submitted to the amendment (A/AC.38/L.39) of Ecuador, Mexico, Philippines and Uruguay:

(a) By Iraq (A/AC.38/L.41), to provide, in paragraph 2, that a three-member commission be established to assist the Governments concerned rather than an individual being designated. Provisions for the appointment of the three members were laid out.

(b) By the Dominican Republic (A/AC.38/L.42), to specify, in paragraph 2, that if the Governments concerned are unable to come to an agreement by 1 April 1951, the three-member commission to assist them should then be established. It also provided for the deletion of reference to the Group Areas Act from paragraph 3 and the substitution in its place of a phrase which called upon the Governments concerned to refrain from taking any steps which would prejudice the success of their negotiations: "in particular, the implementation or enforcement of any provision which may make difficult an understanding". (During the vote, the amendment relating to paragraph 3 was withdrawn by the representative of the Dominican Republic.)

(c) Oral amendment, suggested during the voting, by the representative of Uruguay, on behalf of Ecuador, Mexico, the Philippines and Uruguay, to substitute for paragraph 3 of the joint draft resolution the proposal that the Governments participating in the proposed round table conference take note of the fact that its agenda permits discussion of the Group Areas Act. After discussion the amendment was withdrawn.

The Committee decided, by 23 votes to 18 with 10 abstentions, to vote first on the five-Power joint draft resolution (A/AC38/L.35), as amended.

The results of the vote were as follows:

The first three paragraphs of the preamble were adopted by a roll-call vote of 43 to 1, with 11 abstentions; the Cuban amendment (A/AC.38/L.36), to add a new fourth paragraph to the preamble, was adopted by a roll-call vote of 20 to 3, with 32 abstentions; paragraph 1 of the operative part, as amended, was adopted by a roll-call vote of 43 to 1, with 11 abstentions; the amendment (A/AC.38/L.42) of the Dominican Republic to the first two lines of paragraph 2 was adopted by 27 votes to 8, with 22 abstentions; the amendment (A/AC.38/L.41) of Iraq to the latter part of paragraph 2 was adopted by a roll-call vote of 27 to 12, with 17 abstentions; paragraph 2 as a whole, as amended, was adopted by a roll-call vote of 34 to 6, with 16 abstentions; the amendment (A/AC.38/L.39) of Ecuador, Mexico, the Philippines and Uruguay to paragraph 3 of the joint draft resolution was adopted by a roll-call vote of 24 to 14, with 18 abstentions; paragraph 3 as a whole, as amended, was adopted by a roll-call vote of 25 to 12, with 19 abstentions; and paragraph 4 was adopted by a roll-call vote of 31 to 3, with 22 abstentions. The joint draft resolution as a whole, as amended, was adopted by a roll-call vote of 26 to 6, with 24 abstentions.

At the 48th meeting on 20 November, the representative of India, on behalf of the sponsors, withdrew the four-Power draft resolution (A/AC38/L.33), but reserved their right to resubmit it. The four-Power draft, however, was not re-submitted.

2. Resolution Adopted by the Assembly

The report (A/1548) of the Ad Hoc Political Committee was considered by the General Assembly at its 313th and 315th plenary meetings on 1 and 2 December. The Assembly, at its 313th meeting, decided not to hold a debate on the Committee's report, and at its 315th meeting voted on the draft resolution contained in the report.

[124] See Y.U.N., 1946-47, p. 178; 1948-49, pp. 535-37.

Prior to the voting, several representatives explained their votes.

The representatives of Australia and South Africa opposed the draft resolution before the General Assembly. The representatives of Bolivia, Chile, Cuba, Haiti, Iceland, and Iraq spoke in support of it. The representative of India stated that she was content to leave the decision to the conscience of the General Assembly.

The representatives of Australia and South Africa reiterated the arguments they had advanced in the Ad Hoc Political Committee on the competence of the General Assembly to deal with the matter. They argued that a vote for the draft resolution would be a vote for interference in the most naked form in the internal policies and domestic legislation of a Member State.

Those representatives speaking in favour of the draft resolution considered that the Assembly should take a firm attitude towards discriminatory measures. They argued that the defence of fundamental human rights was one of the primary duties and obligations of the United Nations, and concern for the observance of fundamental human rights in a country did not mean interference in the domestic affairs of that country. They stated that the infringement of human rights and racial discrimination practised in South Africa was not only an offence against the dignity of the human person, but also a grave danger to democratic principles and world peace. The opinion was also expressed that it was time that some solution should be reached so that the question before the Assembly would not become a permanent problem before the United Nations.

A roll-call vote on each paragraph of the draft resolution was taken.

The first three paragraphs of the preamble were adopted by 46 votes to 3, with 10 abstentions, and the fourth paragraph by 29 votes to 5, with 25 abstentions. Paragraph 1 of the operative part was adopted by 48 votes to 3, with 9 abstentions; paragraph 2 by 39 votes to 7, with 14 abstentions; the first part of paragraph 3 by 50 votes to 4, with 6 abstentions, and the second part by 35 votes to 13, with 12 abstentions; and paragraph 4 by 38 votes to 5, with 17 abstentions. The draft resolution as a whole was adopted by a roll-call vote of 33 to 6, with 21 abstentions.

The text of the resolution (395(V)) adopted read as follows:

The General Assembly,

Recalling its resolutions 44(I) and 265(III) relating to the treatment of people of Indian origin in the Union of South Africa,

Having considered, the communication by the Permanent Representative of India to the Secretary-General dated 10 July 1950,

Having in mind its resolution 103(I) of 19 November 1946 against racial persecution and discrimination, and its resolution 217(III) dated 10 December 1948 relating to the Universal Declaration of Human Rights,

Considering that a policy of "racial segregation" (Apartheid) is necessarily based on doctrines of racial discrimination,

1. Recommends that the Governments of India, Pakistan and the Union of South Africa proceed, in accordance with resolution 265(III), with the holding of a round table conference on the basis of their agreed agenda and bearing in mind the provisions of the Charter of the United Nations and of the Universal Declaration of Human Rights;

2. Recommends that, in the event of failure of the governments concerned to hold a round table conference before 1 April 1951 or to reach agreement in the round table conference within a reasonable time, there shall be established for the purpose of assisting the parties in carrying through appropriate negotiations a commission of three members, one member to be nominated by the Government of the Union of South Africa, another to be nominated by the Governments of India and Pakistan and the third to be nominated by the other two members or, in default of agreement between these two in a reasonable time, by the Secretary-General;

3. Calls upon the governments concerned to refrain from taking any steps which would prejudice the success of their negotiations, in particular, the implementation or enforcement of the provisions of "The Group Areas Act", pending the conclusion of such negotiations;

4. Decides to include this item in the agenda of the next regular session of the General Assembly.

L. THE INTERIM COMMITTEE OF THE GENERAL ASSEMBLY

At its fourth session the General Assembly referred to the Interim Committee, the following matters for consideration and report:

(i) Report of the United Nations Commission for Eritrea (resolution 289 A (IV))

(ii) Study of procedure to delimit the boundaries of the former Italian colonies in so far as they are not already fixed by international agreement (resolution 289 C (IV))

(iii) Examination of item 68 of the agenda of the fourth session of the General Assembly dealing with "threats to the political independence and territorial integrity of China and to the peace of the Far East, resulting from Soviet violations of the Sino-Soviet Treaty of Friendship and Alliance of 14 August 1945 and from Soviet violations of the Charter of the United Nations" (resolution 292 (IV))

(iv) Systematic study of the promotion of international co-operation in the political field (resolution 295 (IV))

The General Assembly further instructed the Committee to report on any changes in its constitution or its terms of reference which might be considered desirable in the light of experience and empowered the Committee to amend its rules of procedure as necessary in the light of the modifications of the Assembly's rules of procedure approved during the fourth session.

The report of the Interim Committee to the General Assembly (A/1388) covering the Committee's third session, held between 16 January and 18 September 1950, is summarized as follows.

Consideration of the Report of the United Nations Commission for Eritrea.[125]—The Committee considered the Commission's report (A/1205) at its 40th to 42nd and at its 44th meetings, between 14 and 31 July 1950. It decided to invite a representative of the Italian Government to take part in the discussions of the Committee. At the 45th meeting, held on 15 September, the Chairman stated that confidential discussions, initiated jointly by the United States and the United Kingdom delegations had taken place with the representatives of the interested countries in an effort to reconcile the conflicting points of view on the future status of Eritrea. He himself and the representative of Mexico had later participated in these discussions. A formula which, he considered, was capable of effecting an agreement had been found, but certain considerations prevented its recommendation to the Committee. In view of the short time which remained before the opening of the Assembly session, he regretted that the Committee would not be able to make recommendations to the General Assembly. He therefore suggested that the Rapporteur of the Committee be requested to make his report to the General Assembly incorporating in it this statement of the Chairman. The Interim Committee agreed with the Chairman's suggestion.

Study of the Procedure to Delimit the Boundaries of the Former Italian Colonies not Already Fixed by International Agreement.—The Committee agreed, at its 36th meeting on 16 January, that the consideration of this item would require additional information. It therefore requested the Secretariat to prepare an analysis which would provide members of the Committee with the required data. In response, the Secretary-General submitted a memorandum entitled "Study of procedure to delimit the boundaries of the former Italian colonies" (A/AC.18/103), setting forth the position regarding the several boundaries of these territories. On 7 February, the Committee decided to postpone consideration of this item pending the receipt of the draft Trusteeship Agreement for Somaliland.[126]

On 15 September, a draft resolution on procedure for delimiting certain of the boundaries was submitted by the United States (A/AC.18/118/-Rev.2). This draft resolution proposed, inter alia, that the boundary with respect to Libya not already fixed by international agreement should be delimited on Libya's achievement of independence through negotiations between the Libyan and French Governments. With respect to the Territory of Somaliland the resolution proposed that its boundary with British Somaliland not already fixed by international agreement should, on approval by the General Assembly of the draft Trusteeship Agreement for Somaliland, be delimited through negotiations between the British Government and the Italian Administration. In view of the objections raised by a number of representatives that the limited time before the opening of the General Assembly's session made it impossible for them to consult their Governments on the United States draft resolution, the Committee decided to transmit the draft resolution to the General Assembly as an annex to its report.

Examination of Item 68 of the Agenda, Relating to China.—The Committee decided on 15 September that, in view of the forthcoming session of the General Assembly and in view of the existing political situation, it should not debate this question.

Systematic Study of the Promotion of International Co-operation in the Political Field.—At its 36th meeting, the Interim Committee established a sub-committee on international co-operation in the political field consisting of the representatives of Australia, China, Cuba, France, Greece, Iran, Israel, Lebanon, Mexico, the Netherlands, Norway, Panama, the United Kingdom, the United States and Uruguay.

On the basis of the work done by four working groups, the Sub-Committee, on 28 June, completed its report (A/AC.18/114) which covered three main topics:

(i) Further study on organization of United Nations commissions, in particular on the rules of procedure of commissions

(ii) Analysis on the basis of the experience of the General Assembly, of the preliminary stages in the consideration of a dispute or special political problem by the General Assembly before it begins to take measures for its settlement

(iii) Study of steps taken by the General Assembly for the settlement of a dispute

[125] For summary of the Commission's report and its consideration by the General Assembly, see pp. 363-70.

[126] For text of Agreement, see pp. 802-6.

The Committee decided that the report of the Sub-Committee should be communicated for information to the General Assembly and to Member States.

The General Assembly, at its fifth session, took note[127] of parts of the report of the Interim Committee. With regard to the agenda item dealing with threats to the political independence and territorial integrity of China,[128] it adopted a resolution (383(V)) on 1 December 1950, which noted that the Interim Committee had not yet submitted recommendations on the question and instructed the Committee to continue inquiry on this question.

M. ADMISSION OF NEW MEMBERS

1. Advisory Opinion of the International Court of Justice

The General Assembly, in resolution 296 J (IV),[129] adopted on 22 November 1949, requested the International Court of Justice to give an advisory opinion on the following question:

"Can the admission of a State to membership of the United Nations, pursuant to Article 4, paragraph 2,[130] of the Charter, be effected by a decision of the General Assembly when the Security Council had made no recommendation for admission by reason of the candidate failing to obtain the requisite majority or of the negative vote of a permanent member upon a resolution so to recommend?"

The Secretary-General transmitted this resolution to the Registry of the Court on 25 November 1949.

The Registrar, on 2 December 1949, notified the request to all States entitled to appear before the Court. The same day the Registrar informed the Governments of States Members of the United Nations that the Court was prepared to receive from them written statements on the question and that, by an Order of the Court of that day, a time-limit expiring 24 January 1950, had been fixed for the submission of such statements. The Order reserved the rest of the procedure for further decision.

By 24 January, written statements were received from the Byelorussian SSR, Czechoslovakia, Egypt, the Ukrainian SSR, the USSR and the United States, and from the Secretary-General. The Registrar also received written statements from Argentina on 26 January 1950 and from Venezuela on 2 February 1950. These statements, received after the expiration of the time-limit fixed, were accepted by a decision of the President (the Court itself not being in session). The written statements were communicated to all Members of the United Nations, which were informed that the President had fixed 16 February 1950 as the opening date of the oral proceedings.

France and Argentina, on 14 January and 3 February 1950, respectively, announced their intentions to make oral statements before the Court. Argentina, however, informed the Court on 14 February that it had abandoned this intention. At a public sitting on 16 February 1950, the Court heard an oral statement presented on behalf of France by Georges Scelle, Honorary Professor in the Faculty of Law of the University of Paris and member of the United Nations International Law Commission.

In its opinion,[131] given on 3 March 1950, the Court declared that it had been called upon to interpret Article 4, paragraph 2, of the Charter. Before examining the merits of the question submitted to it, the Court first considered the objections that had been made to its doing so, either on the ground that it was not competent to interpret the provisions of the Charter, or. on the ground of the alleged political character of the question.

With regard to its competence, the Court recalled a previous opinion which dealt with the

[127] For consideration by the General Assembly of the question of Eritrea and the delimitation of the boundaries of former Italian colonies, see pp. 363 ff.

[128] For a discussion of this question and the text of the resolution adopted by the General Assembly, see pp. 381-85.

[129] See Y.U.N., 1948-49, p. 394.

[130] Art. 4, par. 2, of the Charter reads: "The admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council."

[131] International Court of Justice, Competence of Assembly Regarding Admission to the United Nations, Advisory Opinion: LCJ. Reports, 1950, p. 4.

interpretation of Article 4, paragraph 1,[132] and declared as it had done in that case that, according to Article 96 of the Charter and Article 65 of the Court's Statute, it may give an opinion on any legal question and that there is no provision which prohibited it from exercising, in regard to Article 4 of the Charter, a multilateral treaty, an interpretative function falling within the normal exercise of its judicial powers.

With regard to the political character of the question, the Court, quoting the same opinion, said that it "cannot attribute a political character to a request which, framed in abstract terms, invites it to undertake an essentially judicial task, the interpretation of a treaty provision".

The Court then considered the substance of the question. Analysing the terms of the question, the Court reached the conclusion that it was called upon to determine solely whether the General Assembly could make a decision to admit a State to membership in the United Nations when the Security Council had transmitted no recommendation to it; it did not have to examine whether the negative vote of a permanent Member was effective to defeat a recommendation which had ob tained seven or more votes.

On this basis, the Court then considered Article 4, paragraph 2 of the Charter (see above). There was no doubt for the Court that two things are required to effect admission: a "recommendation" of the Security Council and a "decision" of the General Assembly, the recommendation having to precede the decision. In other words, the recommendation of the Council was the condition precedent to the decision of the Assembly by which the admission is effected.

In this connexion, and owing to an interpretation presented in one of the written statements, the Court considered it necessary to say that "the first duty of a tribunal which is called upon to interpret and apply the provisions of a treaty, is to endeavour to give effect to them in their natural and ordinary meaning in the context in which they occur; only if the relevant words in their natural and ordinary meaning were ambiguous or led to an unreasonable result could the Court resort to other methods of interpretation". The Court referred to the terms of the decision of the Permanent Court of International Justice in the case concerning the Polish Postal Service in Danzig.[133]

In the present case, the Court, finding that the natural and ordinary meaning of the relevant terms was perfectly clear, set aside all reference to travaux preparatoires of the. Charter. It considered its conclusion fully justified by the structure of the Charter, which makes the Assembly and the Council principal organs of the United Nations, and does not place the latter in a subordinate position in relation to the former.

Because Article 24 confers upon the Security Council "primary responsibility for the maintenance of international peace and security", the Charter, the Court stated, granted it for this purpose certain powers of decision. Under Articles 4, 5 and 6, the Security Council co-operates with the General Assembly in matters of admission to membership, of suspension from the exercise of the rights and privileges of membership, and of expulsion from the Organization. It has power, without the concurrence of the General Assembly, to re-instate a Member which was the object of suspension in its rights and privileges.

The Court added that the organs to which Article 4 entrusts the judgment of the Organization in matters of admission (the General Assembly and the Security Council) have consistently interpreted the text in the sense that the General Assembly can decide to admit only on the basis of a recommendation of the Security Council. The Court quoted, in particular, Article 125 of the Rules of Procedure of the General Assembly, providing for consideration of the merits of an application only "if the Security Council recommends the applicant State for membership", and Article 126 of these Rules, whereby the Assembly may send back the application to the Council for further consideration. This last step, the Court pointed out, had been taken several times; it was taken in resolution 296 (IV) of the Assembly, the very one that embodies the request for an opinion.

The Court went on to state that if the General Assembly had power to admit a State to membership in the absence of a recommendation of the Security Council, the latter would have merely to study the case, present a report, give advice and express an opinion. This, the Court explained, is not what Article 4, paragraph 2, says.

The Court set aside the suggestion that the absence of recommendation would be equivalent to an "unfavourable recommendation" on which the General Assembly could base a decision to admit a State to membership. This theory, put forward

[132] This paragraph states that "Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations". For the opinion given by the Court on the interpretation of it, see Y.U.N., 1947-48, pp. 796-801.

[133] P.C.I.J., Series B, No. 11, p. 39.

in one of the written statements, referred to a document of the United Nations Conference on International Organization at San Francisco, but the Court, observing that, in practice, no such recommendation was ever made, considered that Article 4, paragraph 2, had in view only a favourable recommendation of the Council.

Concluding, the Court declared that while "keeping within the limits of a request which deals with the scope of the powers of the General Assembly, it is enough for the Court to say that nowhere has the General Assembly received the power to change, to the point of reversing, the meaning of a vote of the Security Council.

"In consequence, it is impossible to admit that the General Assembly has the power to attribute to a vote of the Security Council the character of a recommendation when the Council itself considers that no such recommendation has been made."[134]

For these reasons, the Court, by 12 votes to 2, stated the opinion that the admission of a State to membership in the United Nations, pursuant to paragraph 2 of Article 4 of the Charter, "cannot be effected by a decision of the General Assembly when the Security Council has made no recommendation for admission, by reason of the candidate failing to obtain the requisite majority or of the negative vote of a permanent Member upon a resolution so to recommend".[135]

a. DISSENTING OPINIONS

Judge Alvarez and Judge Azevedo declared that they were unable to concur in the opinion of the Court and appended to it statements of their dissenting opinion. While the majority of the Court considered that the question of the voting procedure in the Security Council was not involved and that the General Assembly, in any event, could not change the meaning of a vote in the Security Council, the dissenting judges considered, that the question of the "right of veto" was in fact the central point in issue.

Judge Alvarez examined this question "in the light of the new international law" and was of the opinion that the General Assembly might determine whether the "right of veto" had been abused; if there was such abuse, the Assembly, he held, could proceed with the admission of a State without a Security Council recommendation.

He concluded by stating that "if it were admitted that the right of veto could be freely exercised, the result might be ... that a State whose request for admission had been approved by all the Members of the Security Council except one and by all the Members of the General Assembly would nevertheless be unable to obtain admission to the United Nations because of the opposition of a single country; a single vote would thus be able to frustrate the votes of all the other Members of the United Nations; and that would be an absurdity".[136]

Judge Azevedo considered a different aspect of the question of the veto and came to the conclusion that the veto did not apply to a recommendation for the admission of a State to membership. He therefore held the view that if the General Assembly observed that an applicant State "has obtained the votes of any seven Members of the Council, it may freely decide to accept or reject the applicant. On the other hand, if the application has not obtained seven favourable votes, the Assembly would be under obligation to take note of the absence of a recommendation preventing any final discussion".[137]

The dissenting judges agreed with the majority that little significance should be attributed to the travaux preparatoires in this case, and suggested further that interpretations should be guided by the future requirements of the international community.

b. CONSIDERATION IN THE GENERAL ASSEMBLY

El Salvador on 28 July 1950 requested (A/1309) the Secretary-General to include the item "Admission of new Members" in the provisional agenda of the fifth session of the General Assembly. On 10 August, in an explanatory memorandum (A/1315), El Salvador stated that it was of the greatest importance that admission to membership should be granted to all those States which, in addition to satisfying the requirements of Article 4 of the Charter, had repeatedly displayed their desire to co-operate with the free nations. It expressed its firm determination to request the admission to the United Nations of certain sister peoples such as those of Italy, Portugal and Ireland.

The question of the admission of new Members to the United Nations, including the advisory opinion of the International Court of Justice was considered by the General Assembly, without prior reference to any committee, at its 318th plenary meeting on 4 December.

[134] See International Court of Justice, op. cit., pp. 9-10.
[135] Ibid., p. 10.
[136] Ibid., p. 21.
[137] Ibid., p. 34.

The Assembly had before it the advisory opinion of the International Court of Justice (A/1373) and three draft resolutions.

Joint draft resolution by Brazil, Canada, the Philippines, Sweden and Syria (A/1571) noted that the General Assembly had not received recommendations for the admission of any applicants and requested the Security Council to keep the pending applications under consideration in accordance with the terms of General Assembly resolution 269 (IV), of 22 November 1949. (That resolution, among other things, determined that Austria, Ceylon, Finland, Ireland, Italy, Jordan, the Republic of Korea, Portugal and Nepal were peace-loving States within the meaning of Article 4 of the Charter, were able and willing to carry out the obligations of the Charter, and should therefore be admitted to membership in the United Nations. The General Assembly requested the Security Council to reconsider the applications of these States in the light of that determination of the Assembly. The Assembly further requested that the States permanent members of the Security Council refrain from the use of the veto in connexion with the recommendation of States for membership in the United Nations and also that the Council keep under consideration the pending applications of all States which so far had not gained admission to the United Nations.)

Draft resolution by the USSR (A/1577) recommended that the Security Council review the applications of Albania, the Mongolian People's Republic, Bulgaria, Romania, Hungary, Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon and Nepal for admission to membership in the United Nations.

Draft resolution by El Salvador (A/1585), urged the Security Council to reconsider the applications of Austria, Ceylon, Finland, Ireland, Italy, Jordan, the Republic of Korea, Portugal and Nepal for admission to membership of the United Nations; it asked the Secretary-General to invite each of the above Governments to send an observer to sessions of the General Assembly and its committees, including the Interim Committee, in order to enable them to express their views and furnish information whenever consulted by the delegation of any Member State; and it stated that documents and letters sent by the above States to the Secretary-General for the information of the United Nations should be distributed to the delegations to the General Assembly or, if the Assembly is not in session, to the foreign offices of Member States and the permanent delegations to the United Nations.

The representative of El Salvador accepted an oral amendment by Thailand to state that each of the Governments to which the resolution applied should, pending admission to membership, be allowed an opportunity to send observers to the Assembly and its committees.

In addition to its sponsors, the representatives of France, Thailand, the United Kingdom and the United States supported the joint draft resolution. It was pointed out that, in view of the recent advisory opinion of the Court on the subject, it was clear that no step could be taken by the General Assembly to admit new Members in the absence of a recommendation by the Security Council. The representatives considered that the Assembly could not possibly do less in 1950 than reaffirm the past Assembly resolutions which expressed the overwhelming sentiment that Austria, Italy, Jordan, Finland, Ceylon, Portugal, Ireland, Nepal and the Republic of Korea were all qualified for membership and were deserving of admission. They hoped that conditions would make it possible for the Security Council to forward, in due course, affirmative recommendations on these and other States which fulfilled the requirements of the Charter.

A number of representatives, including those of Argentina and Egypt who favoured all three resolutions, stressed in addition the principle of the universality of the United Nations and expressed regret that so many countries which could make a substantial contribution to the work of the United Nations were excluded for reasons which had nothing to do with the Charter.

The representative of the United States pointed out that if the Government of the USSR would agree, as his Government had done, not to use its privileged vote to block the admission of applicant States receiving seven affirmative votes in the Security Council, a number of States determined by the Assembly to be amply qualified for membership could be admitted immediately. He stated that unfortunately other applicants were continuing to prevent their own admission by such actions as rendering at least moral support to aggression in Korea, or waging a war of nerves against Yugoslavia, or flouting the recommendations of the Assembly with respect to violations of peace treaty obligations of human rights.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR supported the USSR draft resolution. The Court, they considered, was not competent to give an advisory opinion on the question, but its opinion was, nevertheless, declared to be of undoubted interest. It reproduced all the arguments put forward by them at previous sessions of the General Assembly and confirmed the correctness of their position.

The representative of the USSR explained that his delegation had serious grounds for opposing the admission to the United Nations of the thirteen States whose admission it was proposing. He disregarded the application of the South Korean puppet regime of Syngman Rhee. In order, however, to facilitate a solution of the problem, his Government, he pointed out, was prepared to withdraw its opposition to their admission, provided that there would be no discrimination against Albania, the Mongolian People's Republic,

Bulgaria, Hungary and Romania, which had every qualification for admission to the United Nations, since they met all the requirements of the Charter. He submitted that all thirteen States should be admitted simultaneously, in accordance with the principle that discrimination in the question of the admission of new Members was inadmissible. He criticized the position hitherto maintained by the United Kingdom and the United States, namely selective admission to the United Nations, whereby only those States which enjoyed their protection would be admitted to the United Nations and whereby the People's Democracies could not be admitted. That viewpoint was shared by the other representatives supporting the USSR draft. Several of them emphasized that the United Nations should be fully representative of all countries, regardless of their social, political, or economic structures.

The above representatives opposed both the joint draft resolution and that submitted by El Salvador. The latter, they stated, was entirely in conflict with the Charter. The two resolutions, in their opinion, provided for the continuation of a policy of favouritism, a policy of discrimination in favour of some States which had applied for membership in the United Nations and against other States which had made similar applications. That approach could not give any positive results nor would it help solve the problem of the admission of new Members.

The representative of El Salvador declared his inability to vote in favour of either the joint draft resolution or the USSR draft. He pointed out that those two drafts recommended the reconsideration by the Security Council of certain applications for admission, without taking into practical account the conduct of the applicants in international affairs. The General Assembly, he stated, had declared that Albania and Bulgaria continued to give moral and material assistance to the Greek guerrilla movement and had also condemned Bulgaria, Romania and Hungary for violating fundamental human rights and freedoms. In view of those expressions of censure, it would be difficult, he said, for the Assembly to recommend the reconsideration of the applications for membership of those four countries.

The representatives of the United Kingdom and the United States, among others, opposed the USSR draft resolution. They criticized it for omitting from its list the Republic of Korea and for not containing a provision relating to the elimination of the veto in connexion with questions of membership of the United Nations.

The representative of El Salvador, in explaining his draft resolution, stated that he was in favour of recommending the admission of Austria, Ceylon, Finland, Italy, Ireland, Jordan, Portugal, the Republic of Korea and Nepal to membership in the United Nations, because those nine States had obtained in every vote in the Security Council during the past year, nine favourable votes and only one adverse vote, that of the USSR. He said it could not be regarded as right or in accordance with the purposes of the United Nations that States which, in the opinion of the General Assembly, fulfilled all the requirements needed for membership in the Organization, should be denied all possibility of co-operating with the United Nations and that this should only be so because of the opposing vote of a single one of the permanent members of the Security Council. The purpose of his draft, he said, was to lessen the lack of official contact between the General Assembly and those States which the Assembly itself had stated to be peace-loving nations and which met all the conditions laid down for membership in the Organization.

The representatives of Canada, the United Kingdom and the United States, among others, criticized certain parts of the El Salvadorean draft. They believed that it would involve important changes in the structure of the United Nations which should not be adopted hastily. The observer status which it suggested should be accorded to applicant countries was, in their opinion, incompatible with the dignity of sovereign states and they felt that the proposal would, therefore, not be acceptable to the countries whose interests it was intended to serve.

The Assembly adopted the joint draft resolution (A/1571) by 46 votes to 5, with 2 abstentions. The USSR draft resolution (A/1577) was rejected by 18 votes in favour to 22 against, with 15 abstentions. After a' series of separate votes on each paragraph of the draft resolution (A/1585) submitted by El Salvador, it was rejected as a whole by 19 votes to 13, with 19 abstentions.

The text of the resolution adopted (495(V)) is as follows:

The General Assembly,

Recalling its resolutions 296 (IV) A to I and K of 22 November 1949 concerning the reconsideration, by the Security Council, of pending applications for membership,

Noting that the General Assembly has not received recommendations for the admission of any of the applicants,

Requests the Security Council to keep the applications under consideration in accordance with the terms of the above-mentioned resolutions.

2. Admission of Indonesia

On 25 September 1950 the Permanent Observer of the Republic of Indonesia to the United Nations sent a letter (S/1809, A/1393) to the Secretary-General, formally applying, on behalf of his Government, for the admission of the Republic of Indonesia to membership in the United Nations. A formal declaration that the Republic of Indonesia accepted the obligations contained in the United Nations Charter was enclosed. It then went on to state that on 15 August 1950, the United States of Indonesia re-constituted themselves into a unitary State under the name of Republik Indonesia (the Republic of Indonesia) effective as of 17 August 1950.

The Security Council at its 503rd meeting on 26 September, on the suggestion of the representative of India, decided to take action on the application without prior reference to the Council's Committee on Membership.

The representatives of Ecuador, Egypt, France, India, Norway, the USSR, the United Kingdom, the United States and Yugoslavia supported the application of Indonesia.

The representative of China explained that although his Government under normal circumstances would have been the first to welcome Indonesia into the United Nations, the recognition of the Peking regime by Indonesia had "cast a shadow over the whole question". He considered that recognition as premature and as a lack of faith in the principles of international law. He therefore declared his intention to abstain in the vote.

The Security Council then adopted by 10 votes in favour, none against, with 1 abstention, an oral proposal of the President which found Indonesia to be a peace-loving State and which recommended to the General Assembly that it be admitted to membership in the United Nations.

The Assembly considered the questtion at its 289th plenary meeting on 28 September. It had before it:

(1) text of the letter (A/1393) from the Permanent Observer of the Republic of Indonesia to which was appended the declaration that Indonesia accepted the obligations of the Charter;

(2) text of a letter (A/1402) from the President of the Security Council to the President of the General Assembly drawing the Assembly's attention to the resolution adopted by the Council;

(3) joint draft resolution (A/1403) submitted by Australia and India calling upon the Assembly to admit Indonesia to membership in the United Nations.

The resolution was unanimously adopted by the General Assembly, and at the invitation of the President, the representative of the Republic of Indonesia, Mr. L. N. Palar, took his place on the rostrum.

The President of the Assembly welcomed the representative of Indonesia and, on behalf of the General Assembly, assured him of the Assembly's deep satisfaction at the admission of his country to membership in the Organization. He called upon the representative of Indonesia to transmit to his Government the Assembly's "sincere good wishes for the prosperity of the young Republic of Indonesia".

The following representatives then expressed their satisfaction at Indonesia's becoming a Member and extended a welcome to it: Afghanistan, Australia, Belgium, Bolivia, Burma, Chile, Czechoslovakia, the Dominican Republic, Egypt, France, Greece, India, Iran, Iraq, Israel, the Netherlands, Pakistan, the Philippines, Poland, Saudi Arabia, Syria, Thailand, Turkey, the USSR, the United Kingdom, the United States, Yemen and Yugoslavia.

In response, the representative of Indonesia thanked the speakers for their words of welcome and encouragement, and expressed his special gratitude to the "governments and peoples of India and Australia, supported by the Philippines, Pakistan and Burma, who have taken up our case in the United Nations by bringing it first before the Security Council and, later, before the General Assembly, and have carried it on through thick and thin until the ultimate goal was achieved".

He declared his country's indebtedness to "the nations of Asia and the Middle East, whose leaders met at New Delhi to give us their wholehearted sympathy and inspiration, support and assistance, both moral and material". He likewise expressed his Government's appreciation of "the goodwill of the great Powers, permanent members of the Security Council, which, in considering our application for admission to membership of the United Nations, submerged their differences and gave us their support".

The representative of Indonesia then recalled further that the people of Indonesia highly appreciated the "wise counsels of the leaders and the people of the Netherlands who made possible the cessation of bloodshed and destruction and, instead, wisely sought a peaceful settlement of the dispute at the Round Table Conference last winter".

Finally, he declared that Indonesia would always "recall with deep and warm gratitude the great debt owed to the United Nations". He explained that the United Nations, through its

organs and subsidiary bodies, succeeded to a high degree in injecting the spirit of conciliation and reason into the discussions between the parties to the dispute. Indeed, he remarked, the "United Nations has made valuable contributions in very generous measure to the cause of Indonesian independence and to the establishment of Indonesia as a free nation".

The text of the resolution (491(V)) adopted read as follows:

The General Assembly,

Noting the recommendation of the Security Council of 26 September 1950 that the Republic of Indonesia should be admitted to membership in the United Nations,

Noting also the declaration made by the representative of the Republic of Indonesia to the effect that it will accept the obligations contained in the Charter of the United Nations,

Admits the Republic of Indonesia to membership in the United Nations.

N. WORK OF THE MILITARY STAFF COMMITTEE

The Military Staff Committee continued to hold regular meetings during the year under review but did not report substantial progress in its work.

On 19 January 1950, the delegation of the USSR withdrew from the 120th meeting of the Committee when the Committee decided, by a majority vote that a USSR proposal challenging the right of representation of the Chinese delegation on the Committee could not be discussed as the matter fell within the competence of the Security Council.

The USSR delegation resumed its participation in the work of the Military Staff Committee at the Committee's 140th meeting held on 26 October 1950. At that meeting, the head of the USSR delegation stated that, as previously, the USSR considered the participation of the "representative of the Kuomintang Group" in the work of the Committee to be illegal and that it would consider the vote of that representative to be illegal. He stated that the USSR delegation was participating in the work of the Committee in the "interest of the common cause".

The Chairman stated that the Security Council, having determined that the representatives of the Chinese Nationalist Government were legally representing their Government in the Security Council, they would represent their Government in the Military Staff Committee also. As Chairman, he considered that the decision taken by the Committee on 19 January was still in effect.

The representative of the United Kingdom stated that the question of Chinese representation was a matter for the Security Council to decide and not for the Military Staff Committee. The representative of France concurred in the views expressed by the Chairman and the representative of the United Kingdom.

The representative of China stated that the legality or otherwise of the Chinese representation was not a matter for the USSR delegation to decide. He protested categorically against "the propaganda tactics" employed by the USSR delegation.

At the request of the representative of the USSR statements made at this meeting were included in the Committee's record.

0. INTERNATIONAL CONTROL OF ATOMIC ENERGY [138]

On 29 July 1949, the Atomic Energy Commission adopted a resolution which included the statement that no useful purpose would be served by discussion in the Commission until the six sponsoring Powers reported that a basis for agreement existed. On 23 November 1949, the General Assembly adopted resolution 299 (IV) by which, among other things, it requested the permanent members of the Atomic Energy Commission to continue their consultations and to explore all avenues with a view to reaching an agreement, keeping the Commission and the General Assembly informed of their progress.

The consultations of the six Powers, Canada, China, France, the USSR, the United Kingdom and the United States were resumed on 20 December 1949. On 19 January 1950, the representative of the USSR proposed that the representative of China, whom he termed the "representative

[138] For information on earlier consideration of the question see Y.C7.N., 1946-47, pp. 64-66, 444-51, 886-87; 1947-48, pp. 461-76; 1948-49, pp. 344-61.

of the Kuomintang group", be excluded from the consultations on the ground that he had ceased to represent China. The proposal having been rejected, the representative of the USSR left the consultative conference after stating that the USSR would not recognize as lawful any decision or recommendation adopted by the conferences with the participation of the representative of the "Kuomintang group".

The circumstances leading to the suspension of the six-Power consultations were described in two documents; one (S/1253) dated 30 January 1950, signed by the representatives of Canada, China, France, the United Kingdom and the United States and the other (S/1254) dated 10 February 1950, signed by the representative of the USSR. The two documents were circulated to the Members of the General Assembly. No consultations between the six permanent members took place during the remainder of the year and, in consequence, there has been no discussion in the Atomic Energy Commission.

1. Consideration by the General Assembly at Its fifth Session

At its fifth session the General Assembly considered the question of the international control of atomic energy, at its 321st to 323rd meetings from 12 to 13 December.

Two draft resolutions were presented:

(i) Joint draft resolution by Australia, Canada, Ecuador, France, Netherlands, Turkey, the United Kingdom and the United States (A/1688), which proposed to establish a committee of twelve, consisting of representatives of the Security Council as of 1 January 1951, together with Canada, to consider and report to the next regular session of the General Assembly on ways and means whereby the work of the Atomic Energy Commission and the Commission for Conventional Armaments might be co-ordinated, and on the advisability of their functions being merged and placed under a new consolidated disarmament commission.

(ii) Draft resolution by the USSR (A/1676), which proposed that the United Nations Atomic Energy Commission be instructed to resume its work and to prepare draft conventions for the unconditional prohibition of the atomic weapon and for the control of atomic energy, the two conventions to be concluded and brought into effect simultaneously. The draft conventions were to be submitted to the Security Council not later than 1 June 1951.

Introducing the joint eight-Power draft resolution, the representative of Australia referred to the address given by the President of the United States to the General Assembly, on 24 October 1950, in which he had referred to the two United Nations Commissions dealing with the problem of disarmament, and had suggested that a proper plan of disarmament must include all kinds of weapons, that it must be based on unanimous agreement and that it must apply equally to all nations possessing substantive armaments. The joint draft resolution, the representative of Australia stated, had been developed from that suggestion.

He remarked that the circumstances in which the work of the Atomic Energy Commission and the Commission on Conventional Armaments had been interrupted were well known to Members and that there was no need to elaborate on them. He felt that it might be useful, if only for procedural reasons, to continue the work of the two bodies in a single Commission. At least, he said, the possibility of doing so should be explored. Stressing the need of considering the problem as a "single whole", he stated that agreement on the control of only one type of weapon might have the effect of giving advantage to an aggressor whose strength lay in the possession of other types of weapons. He could not support the USSR draft resolution which, he said, repeated proposals that the Assembly had previously rejected and which contained no safeguards at a time when good faith and safeguards were essential. Past attempts, he said, had failed primarily because of the attitude of one or two Powers. That was not to say that the goodwill of those Powers should not be continually explored and put to the test. Meanwhile, the "free world" should continue to increase its strength on the one hand, while considering on the other, what fresh approach to the problem of disarmament could be used.

In reply, the representative of the USSR stated that at the beginning of the session of the Assembly the United States Secretary of State had said that the principal obstacle to a solution of the question of atomic energy had been the policy of the USSR Government. The truth, however, was that for five years it had been the USSR which had striven for the prohibition of the atomic weapon and the United States and its supporters which had opposed such prohibition. He recalled that the President of the United States had announced on 31 January 1950 that the United States Atomic Energy Commission was being instructed to continue its work on the production of all forms of atomic weapons, including the so-called hydrogen bomb or "super bomb". He had threatened to continue such production until a "satisfactory" plan of control was achieved. This statement removed any doubt as to the real pur-

pose of the United States which, he said, was to continue the arms race, to prevent any ban on atomic weapons, and to prevent genuine international control of atomic energy.

The true purpose of the American plan—the Acheson-Baruch-Lilienthal plan of international control—was, the representative of the USSR maintained, to concentrate control of the utilization and production of atomic weapons in the hands of American monopolists. Thus, the main task of the committee for the peaceful and military development of atomic energy, appointed by the former United States Secretary of War, Henry Stimson, was to obstruct the production of atomic energy and atomic weapons in other countries since such production would be in conflict with interests of the American monopolists.

The majority of the United States advisers and experts on atomic energy were linked with the monopolists, the representative of the USSR declared. Thus in 1945, the organization of the so-called international control was entirely in the hands of the Morgan family, the Duponts, the Mellons and the Rockefellers. Policies of the Atomic Energy Commission and its committees were determined by representatives of big business who controlled the development, exploitation and management of all atomic energy plants.

The representative of the USSR then cited the profits of certain concerns from atomic energy projects in 1949 and in part of 1950. He stated that one reason for United States opposition to the prohibition of atomic weapons was that those profits would disappear. The other reason was the exceptionally important role assigned to the atomic bomb in the "aggressive plans being hatched by the ruling circles of the United States".

Five years of debate had shown that no State which cherished its future destiny could agree to such a fundamental provision of the American plan, as the international control organ's right of ownership over all atomic and ancillary enterprises, including all the sources of atomic raw materials all over the world. Nor could any country agree to the establishment of quota standards for the utilization of atomic energy beyond which no State would be allowed to go without special permission from the international control agency. By agreeing to those conditions, the representative of the USSR said, only shreds and patches would remain of the sovereign rights of States. In addition, he maintained that the USSR proposals for the control of atomic energy were based on the necessity of the unconditional prohibition of the atomic weapon and the simultaneous establishment of strict international control to implement such prohibition. The USSR plan envisaged the establishment within the framework of the Security Council of an international control commission with very wide powers, including powers of inspection which would give it great international authority. That, he said, would wholly dispose of the allegation that the USSR was opposed to investing the international control agency with such an authority.

Furthermore, under the USSR plan, the international control agency would inspect atomic energy facilities by investigating their activities; check existing stocks of atomic raw materials and unfinished products; observe the fulfillment of the rules of technical exploitation of the facilities prescribed by the convention on controls; collect and analyse data on the mining of atomic raw materials; carry out special investigations in cases of suspected violation and make recommendations to the Security Council on measures for prevention and suppression of violations of the convention. Those, he said, were extremely wide powers.

The representative of the USSR then quoted names of scientists, writers, institutions and organizations of several countries including those of the United States, which had demanded prohibition of the atomic weapon and of the hydrogen bomb. He said that the work proceeding in the Soviet Union in the field of atomic energy provided convincing evidence that the production of heat and electric power from atomic fuel was expedient and promised good results and would make it possible for many countries to make rapid progress. It was for such peaceful purposes alone that atomic energy should be used. The USSR draft resolution, he concluded, provided for an immediate resumption of work on the preparation of conventions to achieve such results.

The representative of Sweden stated that he doubted whether it was desirable to deal in a single commission with both atomic weapons and the so-called conventional armaments. The experience of the Disarmament Conference at Geneva, at which all types of armaments had to be considered at the same time, had not been encouraging. The technical nature of the atomic weapon was unique and so were the methods of control. In its technical aspects the problem remained the same whether it was examined by a special commission or a commission concerned with all kinds of armaments. Politically a reconciliation between the opposing points of view would not be made easier if the problem were approached as a whole by a new commission.

However, with a view to examining such possibilities of success as were contemplated in the operative part of the joint draft resolution he would vote for the eight-Power draft resolution.

Supporting the joint eight-Power draft resolution, the representative of the United States referred to the fundamental differences in the approach to the question which had existed between the Soviet Union and the other five members of the Atomic Energy Commission. In 1949, he stated, five of the six permanent members had reported to the General Assembly that Powers other than the USSR put world security first and were prepared to accept innovations in traditional concepts of international co-operation, national sovereignty and economic organization where they were necessary for world security. The Government of the USSR, however, placed its sovereignty first and was unwilling to accept measures which might impinge upon or interfere with its rigid exercise of unimpeded State sovereignty. If that fundamental difference could be overcome, reasonable ground might be found for the adjustment of other differences. The reports showed that there could be no solution to the problem unless the USSR joined the rest of the United Nations in a broad co-operative endeavour to promote peace and security. The failure to reach an agreement in the field of atomic energy control had not resulted from the activities of the individuals in the United States mentioned by the representative of the USSR nor from the economic system of the United States nor from the other facts cited by him. It had resulted from the lone position adopted by the USSR.

The representative of the United States observed that from time to time, in past speeches, the representative of the Soviet Union had implied that it would be appropriate to have the two Commissions carry on their work together. He hoped that if the Assembly adopted the joint draft resolution proposing the establishment of an ad hoc committee to consider the merger of the two bodies, the USSR would participate in the deliberations of that Committee. The draft resolution offered the world the possibility of an immediate and further consideration of the problem of atomic energy and disarmament which, he stated, were the main elements of future world peace.

Replying to the statement made by the representative of the USSR, the representative of the United Kingdom stated that it was useless to repeat time after time that it was all the fault of American monopolists. It was of course true that the atomic bomb was being manufactured in America through the instrumentality of private companies; but that fact was irrelevant to the actual issue, which was that, in the absence of an agreed system of international control, such manufacture was essential not for the purpose of profits, but for the defence of the free world against aggression.

The representative of the United Kingdom said that there were certain "staggering" contradictions in the attitude adopted by the Soviet Union on the question. For example, how were the following statements to be reconciled?

The atomic bomb must be instantaneously banned because of its appalling effect. It had little or no military value. Unlike the capitalist world the Soviet Union was using atomic energy only for peaceful purposes. In the event of war the Soviet Union would be able to use the atom bomb with tremendous effect. International control was essential but sovereignty must in all cases remain inviolate.

Without any watertight system of international control, the representative of the United Kingdom asked, what reliance could be placed on the assurances of the Soviet Union that it would at once destroy any atomic bombs which it might have been able to produce and would forthwith cease to produce any more? He considered that if the peace of the world was to be securely based, control systems had to be worked out and applied both to atomic energy and to conventional armaments, and the method and timing of such control had to be closely co-ordinated. That aspect of the question had not been given very detailed study in the past and the work of the committee proposed in the eight-Power draft resolution might therefore be of considerable value.

Statements in support of the joint draft resolution were also made by the representatives of Egypt and France.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, and the Ukrainian SSR, supporting the USSR draft resolution, stated that, in contrast to that resolution, the joint eight-Power draft resolution was intended to delay an agreement and to give sufficient time to the atomic factories (of the United States) to pile up the stock of bombs. The peoples of the world, however, were determined to outlaw the use of the atomic bomb and their determination was exemplified by the Second World Congress of the Partisans of Peace, which has -issued a manifesto in Warsaw on behalf of 500,000,000 persons who had signed the Stockholm Appeal calling for the

prohibition of atomic weapons and for the general reduction of arms.

The United States, it was said, was unwilling to develop the, use of atomic energy for peaceful purposes, since such use would curtail the profits accruing to big business from other sources of power. Thus Senators Vandenberg and MacMahon had been reported by Collier's Magazine, in its issue of 3 May 1947, to have asserted that the advent of atomic energy as a cheap source of power would lead to a fall in the shares of all railroad and coal companies; insurance companies would go bankrupt and general financial chaos would ensue. Atomic energy according to American monopolists was an undesirable competitor for existing coal, oil and electrical industries, from which they were drawing vast profits. The monopolists were therefore trying their utmost to ensure that atomic energy would not be used for peaceful purposes. By adopting the USSR draft resolution, they contended, the General Assembly would take away from the brutal advocates of atomic warfare a dreadful weapon and would free mankind from the fear of mass destruction.

2. Resolution Adopted by the Assembly

The joint eight-Power draft resolution was put to the vote at the Assembly's 323rd plenary meeting on 13 December 1950 and was adopted by a roll-call vote of 47 to 5, with 3 abstentions. The text of the resolution (496(V)) adopted by the General Assembly follows:

The General Assembly,

Recognizing that the effective regulation and reduction of national armaments would substantially diminish the present danger of war, relieve the heavy economic burden placed upon the peoples of the world in the absence of a system of armaments control, and permit the greater use of man's resources to projects devoted to his betterment,

Recognizing that the regulation and reduction of armaments to be effective must cover weapons of all kinds, must be based on unanimous agreement, and so must include every nation having substantial armaments and armed forces,

Recognizing further that any plan for the regulation and reduction of armaments and armed forces must be based upon safeguards that will secure the compliance of all nations,

Recognizing the inability to date to achieve agreement among nations on the elimination of atomic weapons under a system of effective international control of atomic energy and on the regulation and reduction of other armaments and armed forces,

Recalling that a plan has been developed in the United Nations Atomic Energy Commission, and approved by the General Assembly, for the international control of atomic energy, which would make effective the prohibition of atomic weapons; and that much useful planning work has been accomplished in the Commission for Conventional Armaments,

Desiring, however, to carry this work forward toward a comprehensive system of armaments control,

Decides to establish a committee of twelve, consisting of representatives of the members of the Security Council as of 1 January 1951, together with Canada, to consider and report to the next regular session of the General Assembly on ways and means whereby the work of the Atomic Energy Commission and the Commission for Conventional Armaments may be co-ordinated and on the advisability of their functions being merged and placed under a new and consolidated disarmament commission.

P. THE COMMISSION FOR CONVENTIONAL ARMAMENTS [139]

By resolution 300 (IV), adopted at its fourth session, the General Assembly recommended that the Security Council continue its study of the regulation and reduction of conventional armaments and armed forces through the agency of the Commission for Conventional Armaments in accordance with its plan of work. The Security Council, on 17 January, transmitted the Assembly's resolution to the Commission.

When the Commission met on 27 April, the representative of the USSR submitted a draft resolution (S/C.3/42) proposing that the Commission for Conventional Armaments should decide to exclude the "Representative of the Kuomintang group" from membership of the Commission. The proposal was rejected by the Commission by 4 votes to 3, with 4 abstentions. The representative of the USSR then withdrew from the meeting, declaring that the Soviet delegation would not participate in the work of the Commisson until the "Kuomintang representative" had been excluded and that the USSR would not regard as valid any decision taken by the Commission with the participation of that representative.

[139] For previous activities of the Commission, see Y.U.N., 1946-47, pp. 451-53; 1947-48, pp. 476-80; 1948-49, pp. 361-73.

At the same meeting the Commission decided, at the suggestion of the representative of the United States, to transmit to its Working Committee the Assembly resolution 300 (IV) with the instruction that it should resume its work on item 3 of the Commission's plan of work.[140]

At meetings of the Commission's Working Committee held between 18 May and 9 August 1950, the representative of the United States presented the following working papers:

(1) A working paper (S/C.3/SC.3/23) which proposed: (a) accurate and regular reports from all signatory States of such information relating to conventional armaments and armed forces as might be required by the treaty of disarmament; (b) verification of such information through international inspection; and (c) remedial action in case of any actual or threatened violations of the treaty.

(2) A paper (S/C.3/SC.3/24) containing general views of the United States on the nature and relationships of the international agency which would supervise the regulation and reduction of conventional armaments and armed forces. The document contained provisions relating to the establishment of a conventional armaments administration to carry out such supervision.

(3) A paper (S/C.3/SC.3/25) outlining the basic idea of the United States delegation that the most important information to be reported and verified was that bearing directly on the conventional armaments and armed forces of all States signatory to the treaty. Five schedules attached to the paper detailed: (a) items to be included in reports on personnel, material, deployment, bases and facilities; (b) items to which access must be provided in the verification phase of safeguards.

(4) A paper (S/C.3/SC.3/26) containing general United States views on the nature and scope of "industrial safeguards" (safeguards through industrial information). The paper suggested that military safeguards might be supplemented by a limited type of industrial safeguards which would provide accurate information on important industrial tendencies in certain strategic industries.

During discussions in the Committee the representative of Egypt stated that it was premature to discuss safeguards, since certain external conditions for such safeguards had not yet been fulfilled. The question of safeguards, he maintained, could not fruitfully be discussed separately from the practical measures necessary for the regulation and reduction of armaments and armed forces. Any such discussion, he maintained, must take into account the necessity of putting into effect the military agreements provided for in Article 43 of the Charter and the establishment of the control of atomic energy. Conventional armaments, he stated, had lost much of their importance.

The representative, of Norway considered that the discussion on the question of safeguards, in the absence of the representative of the USSR, should be of a purely technical nature which would raise no controversial issues.

The representative of the United States, on the other hand, said that even in the absence of the USSR representative it was possible and useful to study in detail the question of safeguards, as this study was at the planning rather than the "action" stage.

The United Kingdom representative stated that the Committee's ability to achieve real progress at the present time was limited owing to the refusal of the USSR to participate in its work, but that the study of safeguards formed a vital element in the Committee's work. He considered that one principle must be established as underlying any system of safeguards, namely that it was essential to achieve some measure of improvement in international relations and to create an atmosphere of mutual confidence among the States. If disarmament was not to be universal at the outset, he said, all States possessing major military resources must adhere to the international control system before the entry into force of a convention on the regulation and reduction of armaments. The representatives of China and France also held that it was necessary to establish an international control system before the entry into force of a convention on the regulation and reduction of armaments.

The international control organ, the representative of the United Kingdom stated, should have very close organizational ties with the Security Council. It should be established within the framework of the Security Council, but it should not be too rigidly subordinated to it.

The progress report of the Working Committee (S/C3/43) containing as an internal part, the summary records of its meetings and the working papers submitted to it was transmitted to the Commission on 9 August 1950.

In its report (S/1690) to the Security Council covering the period between 27 April and 9 August 1950, the Commission stated the circumstances in which the representative of the USSR had withdrawn from the Commission's work. It transmitted to the Council the progress report of the Working Committee (S/C.3/43) together with the summary records of its own proceedings.

The Security Council took no action on the report of the Commission during 1950.

[140] Item 3 of the Commission's plan of work related to the question of practical and effective safeguards, by means of an international control system operating through special organs and by other means to protect complying states against the hazards of violations and

Q. REPRESENTATION OF MEMBER STATES IN THE UNITED NATIONS

1. The Question of the Representation of China

a. CONSIDERATION BY THE SECURITY COUNCIL

In a cablegram dated 18 November 1949 (A/1123) to the President of the General Assembly, the Foreign Minister of the Central People's Government of the People's Republic of China stated that his Government repudiated the legal status of the delegation under Mr. T. F. Tsiang and held that it could not represent China and had no right to speak on behalf of the Chinese people in the United Nations.

At the 458th meeting of the Security Council, on 29 December, the representative of the USSR endorsed the position taken up by the Government of the People's Republic of China and stated that he would not regard the representative of the Kuomintang group as representing China, or as being empowered to represent the Chinese people in the Security Council. The representative of the USSR was supported by the representative of the Ukrainian SSR who made a similar statement.

The representative of China stated that, if a minority in the Council could arbitrarily deny the authority of any of the other delegations, the Organization would be reduced to anarchy or to the dictation of one or two delegations.

As to the nature of his Government, he said that the Government which he represented was based on a Constitution freely accepted by the People's representatives in a National Assembly.

The President then pointed out that the matter under discussion had not been included in the provisional agenda for that meeting and that the Council should pass on to other business.

In a cablegram dated 8 January 1950, the Foreign Minister of the Government of the People's Republic of China informed the Governments of States represented on the Security Council that his Government considered that the presence of the Kuomintang delegation in the Council was illegal. His Government's position was that the Kuomintang delegates should be expelled from the Council.

At the 459th meeting of the Council on 10 January 1950, the representative of the USSR expressed his support for the position taken by the People's Republic of China in its communication of 8 January, and he insisted that the representative of the Kuomintang group should be excluded from the Council. If the Council did not take appropriate measures, the USSR delegation, he stated, would not take part in the work of the Council until the Kuomintang representative was excluded. He submitted a draft resolution (S/1443), by which the Council would decide not to recognize the credentials of the representative referred to in the statement by the Central People's Government of the Chinese People's Republic and to exclude him from the Security Council.

The Council considered the USSR draft resolution at its 460th and 461st meetings on 12 and 13 January. The following views were expressed:

The representative of Yugoslavia stated that many Governments, including his own, had recognized the new Government of China. It had been argued that the USSR proposal was premature since five members of the Security Council continued to recognize the old regime. However, the number of Governments according diplomatic recognition to the new Government was growing because it had become patent that the sovereign will of the Chinese people had been expressed in the establishment of the Government of Mao Tse-tung. He argued that recognition or non-recognition by individual Governments of Member States did not imply an analogous position in respect of representation in the Security Council. Considerations of a domestic or ideological character and other factors determining the attitude of individual States on the question of recognition should not be the basis of the Council's attitude. The Council could not continue to work effectively if the world's largest nation were represented by the delegation of a Government which the overwhelming majority of that people regarded as an enemy.

The representative of France said that while the situation in China entailed problems which had not escaped the attention of the French Government, it had not, thus far, formulated its conclusions. In the circumstances, and in the absence of new instruction, the French delegation would not challenge the validity of the credentials of the representative of China and would vote against the USSR draft resolution. He considered that proposal to be a matter of procedure, and therefore held that his negative vote should not be construed as constituting a veto.

The representative of the United States noted that the USSR draft resolution was directed at unseating Mr. Tsiang on the ground that his credentials were no longer valid because they emanated from a Government which the USSR no longer recognized. However, the United States Government recognized, as the Government of China, the Government which had accredited Mr. Tsiang to the Security Council. Therefore, his delegation considered that Mr. Tsiang's credentials remained valid and would vote against the USSR draft resolution. His Government considered that the USSR proposal presented to the Council a procedural question involving the credentials of a representative of a member and his negative vote could not be considered as a veto. He wished to make it clear that his Government would accept the decision of the Council on the matter when made by an affirmative vote of seven members.

The representative of China said that, when he had taken his seat in the Council, more than two years previously, his credentials had been duly certified to the Council as adequate. They had not been challenged until the USSR draft resolution had been presented. If the question before the Council was a matter of credentials, there could be no real question at all. Although the USSR draft resolution spoke of credentials, what it called into question was really the right of his Government to be represented at all. That was not a question of mere procedure but a political question of the utmost importance, and he would treat it as such.

The representative of the USSR stated that the prestige of the Security Council and the United Nations was being undermined by the attitude of the United States and the French delegations and of some other delegations, which were transforming the Council into an organ comprising not only the official representatives of States members of the Security Council, but also private persons representing no one. The USSR delegation, because of the great significance it attached to the Security Council and because it realized the Council's responsibility in maintaining international peace and security, did not consider it possible to participate in the Council's work when the very basis of the authority and prestige not only of the Council, but of the United Nations as a whole, were being undermined. Taking note that the representative of the United States had advanced the thesis that the USSR was demanding the exclusion of the representative of the Kuomintang group because it had recognized the new Government of China and had broken off diplomatic relations with the Kuomintang group, the representative of the USSR denied that thesis. He stated that diplomatic recognition or non-recognition of a Government was not a decisive factor in determining its right to be represented on the organs of the United Nations, including the Security Council. In reality, the USSR was demanding the exclusion of the representative of the Kuomintang group from the Security Council on the ground that he represented neither China nor the Chinese people.

The USSR representative said that it was obvious that any reference to the rules of procedure in connexion with the matter under discussion was irrelevant. The point at isue was not whether the credentials of the representative of the Kuomintang group on the Council were in order, but that the latter had no credentials at all and no legal right or reason to sit in the Security Council, because the Central People's Government of the People's Republic of China had urged his exclusion from the Council on the ground that his presence there was illegal. When half the members of the Security Council had broken off relations with the Kuomintang clique, it would be abnormal for the Council to continue its work with the participation of this Kuomintang clique. The Council should bear in mind the fact that, basing their attitude on international laws, common sense and the existing political situation, six of the eleven members of the Security Council, including China, could not agree to the continued presence of the representative of the Kuomintang group in the Council.

The sole criterion which must guide the Council, the USSR representative stated, was the will of the Government which represented China and the Chinese people in international affairs. That Government was the Central People's Government of the People's Republic of China and its will was clearly expressed in the telegram from its Foreign Minister. References to the rules of procedure were intended to prolong the illegal presence of the Kuomintang agent in the Security Council.

The representative of the United Kingdom stated that his Government considered that it was premature to discuss the USSR draft resolution before even a majority of the members of the Security Council had recognized the new Government in China.

At the 46lst meeting on 13 January 1950, the representative of Ecuador said that his Government would recognize the right of the Nationalist

Government of China to be represented in the Security Council, so long as there was no change in the status of the relations between the two Governments.

Turning to some of the arguments which had been advanced during the debate, the representative of Ecuador examined certain aspects of the question of recognition in international law. He said that it might well be that a State or Government could exist de facto independently of recognition by other States; but if that State were to enter into international relationships, then custom and law required its recognition by other States and the establishment of diplomatic relations. Recognition was not automatic or irrevocable, and it was not enough for a Government to proclaim that it was the sole representative of its people. Other Governments must recognize it in that capacity and act accordingly. He noted that, while devoting some attention to the question of credentials, the representatives of the USSR and China both seemed to consider that the question under consideration was not, in fact, a question of credentials. However, credentials had been received for the representative of China, certified by the Secretary-General as valid and accepted by the Council. Whatever important considerations were involved and whatever motives there might be for unseating a representative, it would be absolutely indispensable first to withdraw recognition of his credentials.

The representative of Cuba considered that the USSR draft resolution bore not only upon the validity of the credentials but also upon the very representation of a Member State. He referred to resolutions 291 (IV) and 292(IV) dealing with the situation in China which the General Assembly had adopted at its fourth session. The USSR draft resolution would lead the Security Council to resolve indirectly, or to consider as already resolved, a problem which was under consideration in another organ of the United Nations, in accordance with resolution 292 (IV). His delegation felt that it would be premature and inappropriate for the Security Council to take a decision on the status of the delegation of China. Together with a majority of the Members of the United Nations, the Cuban Government recognized the Nationalist Government of China. Therefore, the Nationalist Government was legitimately represented in the Security Council. If the Council acted differently, it would be transformed into a body whose function was to accept and legalize factual situations without even considering how those situations had come about.

At the 461st meeting, on 13 January 1950, the USSR draft resolution was put to the vote and was not adopted, having failed to obtain the affirmative votes of seven members. The vote was 6 to 3 (India, USSR, Yugoslavia) with 2 abstentions (Norway, United Kingdom).

The representative of the USSR declared that his delegation would not participate in the work of the Security Council until the representative of the Kuomintang group, who was illegally occupying a seat in that organ of the United Nations, had been removed from membership in the Council. His presence there was undermining the prestige and authority of the Security Council and of the United Nations as a whole. As a result, the Security Council was being transformed into an organ whose decisions could not be considered legal in those circumstances. Therefore, the USSR would not recognize as legal any decision of the Security Council adopted with the participation of the representative of the Kuomintang group and would not deem itself bound by such decisions. The representative of the USSR then left the Council chamber.

The representative of Yugoslavia pointed out that only five votes had favoured the continued representation of the former Government of China. In the circumstances, he questioned whether it was reasonable that the representative of China should continue to preside. He submitted the following draft resolution (S/1448/Rev.l):

> The Security Council,
>
> Considering the serious objections raised against the validity of the credentials of the present Chinese Representative to the Security Council,
>
> Decides to suspend rule 18 of the provisional rules of procedure of the Council,
>
> Invites the Representative of Cuba to take over the Presidency of the Council immediately, and to preside until 28 February 1950;
>
> Decides to return to the application of rule 18 of the provisional rules of procedure of the Council on 1 March 1950.

The representative of France opposed the Yugoslav proposal, since the right to hold the Presidency was included in the rights which rule 17 preserved for representatives to whose credentials objections had been made.

The representative of the United States expressed the regret of his Government that the USSR was unwilling to abide by the Charter and that it had chosen to violate the Council's rules of procedure. He considered that the United Nations was strong enough to withstand such tactics. Calling attention to Article 28 of the Charter, he said that the absence of a permanent member in no way diminished the Council's

powers or its authority to act. The absence of the USSR representative could not be permitted to prevent the Council from fulfilling its obligations under the Charter. Its strength should not be permitted to be dissipated by a gesture of contempt for its orderly processes. He noted that only one of the five States represented on the Security Council which did not recognize the Government represented by Mr. Tsiang refused to accept the decision of the Council taken in accordance with the Charter and the rules of procedure. He hoped that a decent sense of respect for the United Nations and the work before the Council would soon restore the representative of the USSR to his place.

The Acting President said that, in view of the vote on the USSR draft resolution, he felt that the Council had decided to close the matter for the consideration of which the representative of China had used his discretionary powers under rule 20 to relinquish the chair.

After the representative of China had resumed the presidency, the Council commenced its consideration of the next item on the agenda, pending circulation of the Yugoslav draft resolution (S/1448/Rev.l).

At the 462nd meeting on 17 January 1950, the representative of Yugoslavia emphasized that only five members of the Security Council had voted to maintain the present Chinese representation; he considered that the Council's authority would be impaired if the presidential powers were exercised by the Head of a delegation whose credentials had been challenged in that manner.

The representative of Cuba said that the Yugoslav proposal raised again the question of the rights enjoyed by the representative of China, following the objection to his credentials. At the 461st meeting, the USSR draft resolution on the question had been rejected; consequently, the credentials of the representative of China remained valid.

At the 462nd meeting, on 17 January 1950, the Yugoslav draft resolution (S/1448/Rev.l) was put to the vote and rejected by 6 votes to 1 (Yugoslavia), with 3 abstentions (India, Norway, United Kingdom) and one member absent (USSR).

A cablegram dated 20 January 1950, bearing the signature of the Minister of Foreign Affairs of the People's Republic of China, informed the Secretary-General and the Members of the United Nations and the Security Council that his Government had appointed Chang Wen Tien as Chairman of its delegation to attend the meetings and to participate in the work of the United Nations, including the meetings and work of the Security Council. He asked when the Kuomintang representative would be expelled from the United Nations and from the Security Council, and when the delegation of the People's Republic of China could participate in the work of the United Nations and the Security Council. A cablegram dated 3 February 1950, bearing the signature of the Vice-Minister of Foreign Affairs of the People's Republic of China, protested against the continued presence of the Kuomintang representative in the Security Council. At the request of the representative of Yugoslavia, the two communications were circulated as official documents of the Security Council (S/1462).

During the month of February 1950, the Secretary-General requested the preparation of a confidential memorandum on the legal aspects of the problem of the representation of States in the United Nations. Some of the representatives on the Security Council asked to see the memorandum and references to it appeared in the Press. On 8 March, the Secretary-General informed the President of the Council that he felt it appropriate that the full text be made available to all members of the Council. Accordingly, he circulated the memorandum (S/1466) to all members and released it to the Press.

The memorandum stated that the primary difficulty in the current question of the representation of Member States in the United Nations was that the question of representation had been linked up with the question of recognition by Governments of Member States. After arguing that the linkage was unfortunate from the practical standpoint, and wrong from the standpoint of legal theory, the memorandum concluded that the proper principle could be derived by analogy from Article 4 of the Charter. Article 4 required that an applicant for membership must be able and willing to carry out the obligations of membership. The obligations of membership could be carried out only by Governments which, in fact, possessed the power to do so. Where a revolutionary government presented itself.as representing a State,, in rivalry to an existing government, the question at issue should be which of these two governments- in fact was in a position to employ the resources and direct the people of the State in the fulfilment of the obligations of membership. In essence, this meant an inquiry as to whether the new government exercised effective authority within the territory of the State and was habitually obeyed by the bulk of the population. If so, the memorandum

stated, it would seem to be appropriate for the United Nations organs, through their collective action, to accord the new government the right to represent the State in the Organization, even though individual Members of the Organization refused, and might continue to refuse, to accord that government recognition as the lawful government for reasons which were valid under their national policies.

On 13 March, the representative of China lodged his Government's formal protest (S/1470) against the Secretary-General's memorandum (S/1466), which the representative of China considered to be an attack on China's United Nations front and would, in time, be recognized as an attack on the cause of freedom throughout the world. After analysing the political errors which he considered the document involved, he replied to the legal arguments it advanced and concluded that recognition and representation were based on similar considerations and that the linkage between the two was natural and inevitable. If the Secretary-General wished to institute the inquiry to which he had referred, the only possible procedure consistent with the principles of the Charter was a fair and free election. The communist regime did not have the support of the Chinese people, who regarded it as a puppet regime. The representative of China considered that the question of Chinese representation could not be held to "threaten the maintenance of international peace and security" within the meaning of Article 99 of the Charter, the only Article that assigned a sphere of political action to the Secretary-General. For these reasons, he concluded that the Secretary-General had intervened against the interests of China on the basis of bad politics and bad law.

On 27 July, the permanent representative of the USSR at the United Nations informed the Secretary-General that, in accordance with established procedure, he was assuming the Presidency of the Security Council for August 1950. At the meeting on 1 August, the President ruled that the representative of the Kuomintang group did not represent China and therefore could not participate in the Council's meetings.

The representative of the United States considered that no President had the authority to rule, by arbitrary fiat, upon the status of the representative of a country which was a Member of the United Nations. Accordingly he challenged the ruling.

After discussion during which the points of view previously expressed were maintained, the President's ruling was overruled by the Council by 8 votes to 3 (India, USSR, Yugoslavia). The representative of the USSR declared that this decision was illegal because the person concerned was the spokesman of a group which represented no one, and was not a representative of a State.

On 3 August, the Council rejected by 5 votes to 5 (China, Cuba, Ecuador, France, United States), with 1 abstention (Egypt), the proposal to include in the agenda the item "Recognition of the representative of the Central People's Government of the People's Republic of China as the representative of China" which had been placed on the Council's provisional agenda by the President (representative of the USSR).

b. CONSIDERATION BY THE GENERAL ASSEMBLY AT ITS FIFTH SESSION

In a cablegram (A/1364) dated 26 August 1950 to the Secretary-General, the Foreign Minister of the People's Republic of China recalled previous notes sent by his Government to the Secretary-General and to the General Assembly calling for the expulsion of the Kuomintang representatives from the United Nations organs. The continued toleration of those representatives by the United Nations was, it was stated, a violation of the United Nations Charter and involved disregard of the rightful claims of the People's Republic of China. He requested that the necessary arrangements should be made for the delegation of the People's Republic of China to attend the fifth session of the General Assembly.

On 5 September, the Secretary-General replied that he would promptly make a request for the entry into the United States of the delegation of the People's Republic of China, on the General Assembly's acceptance of that delegation as representing the Republic of China, or on the invitation to it by the General Assembly to attend the session.

In a cablegram dated 18 September, the Foreign Minister of the Central People's Government of the People's Republic of China repeated the statements included in his previous message and declared that, should the fifth session of the General Assembly be held without the participation of his Government's delegation, all the resolutions of the General Assembly concerning China would be illegal, null and void.

At the opening meeting (277th) of its fifth session, on 19 September 1950, the General Assembly had before it the following four draft resolutions:

(i) By India (A/1365), which noting that the Republic of China was a Member of the United Nations and of its various organs, considering that the obligations of a Member under the Charter of the United Nations could not be carried out except by a Government which, with a reasonable expectancy of permanence, actually exercises control over the territory of that Member and commands the obedience of its people, recognizing that the Central Government of the People's Republic of China is the only such Government functioning in the Republic of China as now constituted, would have the General Assembly decide that the aforesaid Central Government should be entitled to represent the Republic of China in the General Assembly; further, the draft resolution would have the Assembly recommend that the other organs of the United Nations adopt similar resolutions.

(ii) By the USSR (A/1369), which would have the General Assembly decide that the representatives of the Kuomintang group could not take part in the work of the General Assembly and its organs because they were not the representatives of China.

(iii) By the USSR (A/1370), which would have the Assembly invite the representatives of the People's Republic of China accredited by the Central People's Government to take part in the work of the General Assembly and its organs.

(iv) By Canada (A/1386), which taking note of differences of view concerning the representation of China in the United Nations, would have the Assembly establish a Special Committee consisting of the President of the Assembly and six other representatives selected by the President to consider the question of Chinese representation and to report back, with recommendations, to the present session of the General Assembly, after the Assembly should have considered item 62 of the Provisional agenda (Cuban item).[141] The draft resolution would further have the Assembly resolve that, pending a decision by the General Assembly on the report of the Special Committee, the representative of the National Government of China shall be seated in the General Assembly with the same rights as other representatives.

The representative of Australia proposed an amendment (A/1371) to. the Canadian draft resolution, by which the Special Committee would be constituted of seven Members nominated by the President and confirmed by the Assembly. This amendment was accepted by the representative of Canada.

The representative of the USSR stated that the first point which the General Assembly ought to settle in connexion with the Indian draft resolution was whether the presence in the General Assembly of the representative of the Kuomintang group purporting to represent China was proper. He maintained that only a State Member of the United Nations was entitled to appoint its representatives to the Organization and to provide them with necessary credentials. This, he stated, was clearly provided for under rule 27 of the General Asesmbly's rules of procedure which stated that "the credentials shall be issued either by the head of the State or Government or by the Minister of Foreign Affairs". It was inadmissible that the General Assembly should be attended by persons who did not represent their country and who belonged to the remnants of a political regime which had been overthrown in the country. However, an attempt was being made to accord representation to the Kuomintang group in China which had not the slightest political, legal or moral right to represent China. He therefore asked that the Assembly first consider his draft resolution which would recommend the exclusion of the Kuomintang representative.

Speaking in support of the Indian draft resolution, the representative of Yugoslavia stated that to recognize as the Government of China a political group which in reality did not hold power in that, country was both illegal and politically inexpedient. There could hardly be any doubt that the delegation of the People's Republic of China must take its place in the United Nations. To postpone the matter or to link it with other controversial questions would, in his opinion, tend to aggravate the whole international situation.

He further said that Yugoslavia's position on this question was entirely independent of its attitude towards the foreign policy of the Government of the People's Republic of China or its policy with regard to Yugoslavia.

The representative of China stated that he represented the only legal Government in China based on a constitution passed by the representatives of the Chinese people. After briefly outlining the achievements of that Government in the political and economic fields and its efforts in resisting Japan's aggression the representative of China analysed the origin and character of the Peking regime, which he said had been brought into power by the Soviet Union. He quoted General Chu Teh, the Communist Commander-in-Chief, to the effect that the victory of the Chinese democratic revolution was inseparable from Soviet aid. Mao Tse-tung had himself defined his policy on 1 July 1949 as alliance with the Soviet Union, with the new democratic countries of Europe and with the proletariat and masses of the people in other countries to form an international united front.

Referring to the Korean issue, the representative of China said that the radio and the press under the control of the Peking regime had been trying to impose the idea that the action in Korea was a war of aggression by the United States.. The fourth report of the Unified Command in_

[141] See pp. 429-35.

Korea, it was stated, (S/1796) showed beyond doubt that the Chinese communist regime had substantially aided North Korea. He denied that the communist regime had effective control of China, stating that even at that moment one million guerrillas were fighting the communists on the mainland. He said that it would be an endorsement of totalitarian despotism to accept the Peking regime into the United Nations as representative of 450,000,000 people.

The representative of the United States called upon the Assembly to vote at once on the Indian draft resolution and to vote it down. He said that he took his position on the sound and unanswerable ground of the need for orderly procedure and the overwhelming necessity of getting on to the organization of the Assembly and the transaction of orderly business.

Some measure of the consequences and difficulties of the question, he stated, was given by the fact that 43 States represented in the Assembly recognized the Government which it was proposed to eject and sixteen recognized the regime which it was proposed to seat. This was a step of the greatest importance to all governments because it would create precedents. Such a decision could not be taken without full consideration. During this session, he stated, there would be ample opportunity to consider the criteria which should be used in determining which of the two claimants should be seated in the United Nations.

The representative of the USSR, supported by the representatives of Poland, Czechoslovakia and the Ukrainian SSR, maintained that no one could any longer doubt the real character of the Kuomintang clique, which had arrogated to itself the right to speak on behalf of the 450,000,000 people of China who had thrown them out. The representative of the USSR cited Mr. Acheson's introduction to the United States White Paper of August 1949 and his statement of 12 January 1950. Describing the Kuomintangists, the former document stated that in the opinion of many observers, they had sold official duties and responsibilities, become corrupt and so on. In the 12 January statement, Mr. Acheson had recognized that Chinese people had deprived the Chiang Kai-shek regime of support.

The representative of the USSR then quoted —with apologies to the President for the language of the quotation—from the papers of General Stilwell, former Commander-in-Chief of United States forces in China. General Stilwell had described the Kuomintang group as a "gang of thugs whose sole purpose was to clutch power and maintain their machine in power". The leaders, General Stilwell was stated to have said, thought only of money, influence, jobs and intrigues. The USSR representative therefore urged the adoption of his draft resolution inviting the representatives of the Central People's Government of the People's Republic of China.

The representative of India stated his Government had recognized the Central Government of China toward the end of 1949 and had ever since followed the logical consequences of that recognition. India's advocacy of the claims of new China to be represented in the United Nations was antecedent to and in no way connected with the Korean conflict. India had recognized the new Government because to the best of its knowledge it was a sound and stable Government. It had followed the criteria of recognition in international law: "habitual obedience of the bulk of the population with a reasonable expectancy of permanence." As Dr. Lauterpacht put it: "The bulk of the practice of States, at least that of Great Britain and the United States . . . was based on the principle of effectiveness thus conceived."[142]

Further, it seemed self-evident that the Central Government of the People's Republic of China was the only Government that could discharge China's obligations under the Charter. It was illogical and inconsistent to demand fulfilment of obligations while denying rights. There was a double fallacy, he contended, in the objection that it was impossible to seat a "puppet Communist Government." He said that according to his information, that Government was a national coalition representing all sections of the nation, including some members of the Kuomintang, pledged to work a common programme of democratic advance, In his Government's view it was an independent Government. He then quoted two articles, published in The Times of London on 28 and 29 June 1950. The writer, speaking of Chinese communism said:

> It is because it is a Chinese movement, seeking to reform conditions in China, that it has gained such wide support. Few of its followers are really interested in foreign nations or their fate. The mass support of all classes which the regime enjoys is not given to theoretical communism but to the practical programme of reform and reconstruction which the party is now carrying out. The Administration, confined in the executive posts to party members is impeccably honest; the army is admirably disciplined; there is no nepotism; efficiency

[142] See Oppenheim, L. F. L., International Law; a Treatise, edited by H. Lauterpacht (7th ed., London, New York, 1948), Vol. I, p. 127.

and drive have replaced sloth and indifference. Intellectuals and experts, non-communists in their own views, have been asked to work for the regime in order to reconstruct China, and find a congenial atmosphere in which the expert is appreciated and his advice accepted.

But, he said, even assuming that the new Government in China was a communist Government, there was room for it in the United Nations since that Organization was open to different systems of Government, with different policies and ideals. So long, he concluded, as a nation of 475,000,000 remained outside a world organization, that organization could not be regarded as fully representative. For those reasons he commended to the Assembly his draft resolution.

The representative of Syria suggested that, in order to give time for the consideration of this question, voting on the draft resolutions should be postponed and the credentials committee should be immediately appointed. The General Assembly could take a final decision after the credentials had been presented and all the representatives recognized as the presumptive representatives to participate in the session.

The representative of Australia adduced four arguments against the Indian and the USSR draft resolutions. The first was that the Indian proposal made allegations of fact which the Assembly was not in a position to determine: reasonable expectancy of permanence, control of territory, and command of the obedience of people. From the statements of the Chinese and the USSR representatives there was, obviously, a dispute on those facts and this dispute must be settled first by an appropriate body.

But, he asserted, even if the allegations were correct, the fact that a nation was controlled by a particular Government, or that it commanded obedience of its people, or that it was the only such functioning government would not be sufficient to justify admission. Hitler's regime during the war could have satisfied those criteria and so could North Korea if it had succeeded in overrunning the South. It would be necessary to determine both the facts and the criteria to be applied. He therefore supported the Canadian draft resolution for a special committee with the qualification that the members of the committee should be elected by the Assembly and not appointed by the President. Finally, the representative of Australia urged the Assembly to follow the well-known juridical maxim: not only was it important that justice was done; it was equally necessary that justice should appear to be done.

The representative of Sweden stated that he would support the Indian draft resolution on the ground that the People's Republic had control over nearly all the territory of China and therefore was the only de facto government of the country. No government was obliged to recognize the situation de jure but it was an unequivocal fact that the Chinese nation was no longer represented by the Nationalist Government, now residing in Formosa.

The representative of Cuba explained that the agenda item his delegation had proposed[143] was of a general character with regard to representation. It did not refer or intend to refer specifically to China. In that case, however, it could be included within the general rules which the Assembly might adopt. As to the proposals on Chinese representation the representative of Cuba supported Syria's suggestion of appointing the credentials committee first and dealing with the draft resolutions later. At that time, he felt, it would be opportune to adopt the Canadian proposal for a special committee.

In reply to the statement made by the representative of Australia, the representative of the Ukrainian SSR stated that the United Nations included in its Membership all nations who through their joint efforts, had undertaken to fight for and to establish lasting peace. It appeared to him that the representative of Australia did not share that purpose, if, in violation of the Charter, he wanted to keep out nations whose make-up and ideologies were different from that of his country. The People's Republic of China, he stated, elected by the Chinese people and representing their vital interests, had in a very short time gone a long way on the road to economic and social reform. That was enough proof that it was a people's government. He stated further, that his Government, like the governments of other countries, could not tolerate the presence of representatives of the Kuomintang group in the Assembly. He would, therefore, support the two draft resolutions presented by the USSR.

The representative of Peru stated that the Assembly could not, as proposed by India, assume a distinct juridical competence on the matter. The basic question, in his view, was to know which Government legitimately and effectively exercised the personality of China and the answer depended upon the opinions of the government which had relations with China. Forty-three Member States still did not think that a legal change had occurred in the legal personality of China.

[143] Item 62 on the provisional agenda—Recognition by the United Nations of the representation of a Member State—became item 61 on the final agenda (see below for discussion).

The various proposals were then put to the vote. The Syrian proposal to postpone a decision was rejected by 21 votes to 16, with 13 abstentions. The Indian draft resolution (A/1365) was voted upon by roll-call and rejected by 33 votes to 16, with 10 abstentions. The voting was as follows:

In favour: Afghanistan, Burma, Byelorussian SSR, Czechoslovakia, Denmark, India, Israel, Netherlands, Norway, Pakistan, Poland, Sweden, Ukrainian SSR, USSR, United Kingdom and Yugoslavia

Against: Australia, Belgium, Bolivia, Chile, China, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Ethiopia, Greece, Haiti, Honduras, Iceland, Iran, Iraq, Liberia, Luxembourg, Mexico, New Zealand, Nicaragua, Panama, Paraguay, Peru, Philippines, Thailand, Turkey, Union of South Africa, United States, Uruguay, Venezuela

Abstaining: Argentina, Canada, Ecuador, Egypt, France, Guatemala, Lebanon, Saudi Arabia, Syria, Yemen

The Canadian draft resolution (A/1368) was voted on in two parts:

First part, as amended by Australia: adopted by 38 votes to 6, with 11 abstentions; second part, adopted by 42 votes to 8, with 6 abstentions.

USSR draft resolution (A/1369): rejected by 38 votes to 10, with 8 abstentions.

Second USSR draft resolution (A/1370): rejected by 37 votes to 11, with 8 abstentions.

The text of resolution (490 (V)) adopted by the Assembly follows:

The General Assembly,

Taking note of differences of view concerning the representation of China in the United Nations,

Establishes a Special Committee consisting of seven Members nominated by the President and confirmed by the General Assembly to consider the question of Chinese representation and to report back, with recommendations, to the present session of the General Assembly, after the Assembly shall have considered item 62 of the provisional agenda (item proposed by Cuba);

Resolves that, pending a decision by the General Assembly on the report of this Special Committee, the representatives of the National Government of China shall be seated in the General Assembly with the same rights as other representatives.

c. APPOINTMENT OF THE SPECIAL COMMITTEE

On 12 December, the General Assembly, on the nomination of the President, elected by secret ballot the following States Members to serve on the Special Committee: Canada, Ecuador, India, Iraq, Mexico, the Philippines and Poland.

The Special Committee met on 15 December and elected the representative of India as its Chairman. After some discussion it decided, by 3 votes to 1, with 2 abstentions to leave the convening of the next meeting to the discretion of its Chairman. No further meeting of the Special Committee was held in 1950.

2. Recognition by the United Nations of the Representation of a Member State

By a letter (A/1292) dated 19 July 1950, Cuba requested the Secretary-General to place the question of the recognition by the United Nations of the representation of a Member State on the provisional agenda of the fifth session of the General Assembly. An explanatory memorandum (A/1308) was transmitted to the Secretary-General on 26 July.

The memorandum included a summary of the consideration of the same question by the Security Council and its Committee of Experts in January and February 1950.[144] The representative of Cuba had at that time stated that only the General Assembly or a subsidiary organ established by it was legally authorized to study or promote identical solutions for all organs of the United Nations concerning questions affecting the functioning of the Organization as a whole. The Committee of Experts had agreed on the desirability of establishing some uniform procedure which could be adopted by all organs of the United Nations, and the majority of its members had agreed that the question under consideration was of such a nature that it should be dealt with by the General Assembly. The item proposed, it was explained, referred not only to the formal problem of credentials, but to fhe question that arose concerning the legality of the representation of a Member State in the United Nations, when the latter had to decide which Government had the right to represent that State in the Organization.

On 6 September, the Secretary-General transmitted to the Members of the General Assembly, for their information, the text of a resolution (A/1344) adopted on 30 May 1950 by the fifth session of the General Conference of the United Nations Educational, Scientific and Cultural Organization, forwarded to him on 1 June by the Director-General of that organization. The resolution expressed the wish that the United Nations should adopt general criteria to permit uniform and practical settlement of the problem of representation on United Nations organs and organizations.

a. DISCUSSION IN THE AD Hoc POLITICAL COMMITTEE

The General Assembly, at its 285th plenary meeting on 26 September, referred this question to the Ad Hoc Political Committee which con-

[144] See pp. 52-53.

sidered it at its 18th to 24th meetings inclusive, and again at its 57th to 60th meetings inclusive, held on 20, 21, 23, 25 and 26 October and 27 and 28 November.

Cuba (A/AC.38/L.6) and the United Kingdom (A/AC.38/L.21) submitted draft resolutions in connexion with the item. The preamble of the Cuban proposal (A/AC.38/L.21) expressed the view:

(1) that questions regarding the representation of a Member State in the United Nations could not be definitively settled under the present rules and that there was danger that the organs of the United Nations might reach conflicting decisions;

(2) that in the interest of the proper functioning of the United Nations there should be uniformity in the procedure applied in the settlement of such questions;

(3) that by virtue of its composition, the General Assembly was the only organ of the United Nations in a position to express the general opinion of all Member States in matters affecting the functioning of the Organization as a whole. The first operative paragraph of the draft recommended that questions arising in connexion with the representation of a Member State in the United Nations should be decided in the light of the following: (a) effective authority over the national territory; (b) the general consent of the population; (c) ability and willingness to achieve the Purpose of the Charter, to observe its Principles and to fulfill the international obligations of the State; and (d) respect for human rights and fundamental freedoms. The second operative paragraph provided that when it was necessary to take a decision regarding the legitimacy of the representation of a Member State, the matter was to be referred to the General Assembly for decision. The third operative paragraph declared that such decisions taken by the General Assembly were not to affect the direct relations of individual Member States with the State, the representation of which had been the subject of such decision. The fourth operative paragraph requested the Secretary-General to transmit the resolution to the organs and specialized agencies of the United Nations for appropriate action.

In submitting his draft resolution, the representative of Cuba explained that the problem before the United Nations was to find a criterion and a method of procedure whereby it could decide on the capacity or right of a Government to represent a Member State within the Organization. None of the rules of procedure of the Security Council indicated what was to be done when a question arose as to which was the recognized or true Government of any particular State. The Charter did not contain any provision in that connexion, nor did the rules of procedure of the main organs lay down any rules whereby such a problem could be solved. The chief purpose of the Cuban draft, he said, was to set forth the basic principles according to which the question of the legal representation of governments should be solved. The draft, he pointed out, made it clear that the decision the General Assembly might take bound only the United Nations. It would not affect diplomatic recognition by Member States.

He enumerated the conditions set forth in his draft resolution which would make possible, in his opinion, an objective decision regarding the capacity or right of a government legitimately to represent a Member State in the United Nations. The first condition, he said, concerned the government's effective authority over the national territory. That condition was complemented by the second, which was the general consent of the population. A third was the government's ability and willingness to achieve the purposes of the Charter, to observe its principles and to fulfil the international obligations of the State. Willingness to co-operate with the United Nations and to observe its principles, he asserted, was an obviously essential condition for any government claiming to represent any Member State. However, the government should also be capable of such co-operation and capable of fulfilling the State's other international obligations. The final condition was that in the exercise of its authority the State should respect human rights and fundamental freedoms. Protection of those rights, he argued, was one of the fundamental purposes of the United Nations and it had, therefore, seemed obvious that it should be taken into account when deciding the legitimacy of the representation of a Member State.

The preamble of the United Kingdom proposal (A/AC.38/L.21) stated that:

(1) There was no uniformly agreed principle for determining the right of the government of a Member State to represent it and that there was a danger that conflicting decisions on this subject might be reached by the various organs of the United Nations and in the specialized agencies;

(2) In the interest of the proper functioning of the Organization there should be uniformity in the criteria to be applied in determining whether a given government was entitled to represent a Member State or when the representation of a Member State was challenged in any organ of the United Nations;

(3) In virtue of its composition, the General Assembly was the only organ of the United Nations in which consideration could be given to the views of all Member States in matters affecting the functioning of the Organization as a whole. The first operative paragraph recommended that where the question of the representation of a Member State arose in consequence of internal processes or changes which had taken place in that State, the right of a Government to represent the Member State concerned in the United Nations should be recognized if that Government exercised effective control and authority over all or nearly all the national territory, and had the obedience of the bulk of the population of

that territory, in such a way that this control, authority and obedience appeared to be of a permanent character. The second operative paragraph provided that when any question arose regarding the right of a Government to represent a Member State in the United Nations, the matter was to be referred to the General Assembly for consideration, but without thereby precluding action by any other organ of the United Nations which was called upon to take a decision on the matter during the period before the Assembly met. The third operative paragraph recommended that the view taken by the General Assembly concerning the right of a Government to represent a Member State should be acted upon by Member States in other organs of the United Nations and in the specialized agencies. The fourth operative paragraph declared that decisions taken by the General Assembly in accordance with the resolution were not of themselves to affect the direct relations of individual Member States with the State the representation of which had been the subject of such decisions. The fifth operative paragraph requested the Secretary-General to transmit the resolution to the organs and specialized agencies of the United Nations for appropriate action.

The representative of the United Kingdom explained that it was essential that some universal, factual and objective test which implied no moral or political approval of the government concerned or of the people which it controlled or of its policies or actions should be applied. In the circumstances, the most convenient and logical test was that the government to be recognized internationally as the government of the State concerned was that which controlled all or nearly all of the territory of the State and had the allegiance of the overwhelming majority of its population. That criterion, he said, was objective and coherent. It was important that the United Nations adopt some such test, since agreement was unlikely on any other basis. Sharp differences of opinion would arise on criteria such as respect for human rights, willingness to fulfil international obligations and consent of the people governed. The objective test of effective control, he asserted, would make possible almost unanimous agreement. All others were subjective in varying degrees and could lead only to divergences of view and of action. Refusal to allow a government exercising effective control to represent a State in the United Nations meant that the State was unrepresented and could not enjoy its rights as a Member. Such action, he argued, was illegal and contrary to the Charter.

Various amendments to the two proposals were submitted, mostly with a view to making the criteria to be applied more detailed. Thus, the representative of Uruguay submitted an amendment (A/AC38/L.11) to the Cuban draft designed to add the following- criterion: effective authority of a government should be acquired by means which are in accordance with international law. This provision, the representative of Uruguay explained, would preclude recognition of any government established with the illegal intervention of another State. His amendment would also make it clear that an Assembly decision would be required only in the event of disputes regarding the representation of a State.

The representative of China also submitted an amendment (A/AC.38/L.22) to the Cuban draft. This amendment, inter alia, provided for the addition of a paragraph which would make it clear that the recognition of a new representation of a Member State should not be premature and should be guided strictly by the principles and provisions of the Charter of the United Nations and the Stimson Doctrine of Non-Recognition.[145] Another new paragraph would make it clear that effective authority over a national territory was to be established without the intervention of any other State, and that such authority was not to be the result of foreign aggression, either direct or indirect.

The representative of Venezuela submitted an amendment (A/AC.38/L.24) to the United Kingdom draft, which provided for, among other things, the addition of a new criterion beside that of effective control over a national territory; namely, the expressed declaration of the Government concerned, to fulfil willingly its international obligations.

At the 20th meeting of the Ad Hoc Political Committee on 23 October, the representative of the Dominican Republic submitted a draft resolution (A/AC.38/L.23), calling upon the General Assembly:

(1) to request the International Law Commission to study the legal aspects of the item and to submit the results of such study in time for inclusion in the agenda

[145] United States Secretary of State Stimson in Jan. 1932 addressed notes to both the Government of the Chinese Republic and the Imperial Japanese Government, notifying them that the United States Government "cannot admit the legality of any situation de facto nor does it intend to recognize any treaty or agreement entered into between those Governments, or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, or to the international policy relative to China, commonly known as the open door policy; and that it does not intend to recognize any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which Treaty both China and Japan, as well as the United States, are parties". This is referred to as the Stimson Doctrine of Non-Recognition. (Foreign Relations of the United States, 1932, Vol. III: The Far East, p. 8.)

of the sixth regular session of the General Assembly; and

(2) to send to the International Law Commission the records of the meetings of the Committee dealing with the subject, the draft resolutions submitted, and all other documents which might provide the International Law Commission with useful information, and to request the Secretary-General to take the necessary action on this resolution.

At the 23rd meeting on 26 October, the United Kingdom submitted a proposal (A/AC.38/L.25) to the effect that, if it should be decided to refer the matter to an outside body, the latter should be the International Court of Justice, to which (or to the International Law Commission if reference were made to that body), the following questions should be put:

(1) If, in consequence of internal changes or processes which have taken place in a State a Member of the United Nations, there is established in that State a Government which exercises effective control and authority over all or nearly all the national territory, and has the obedience of the bulk of its population, in such a manner that this control, authority and obedience appear to be of a permanent character, is there an obligation, according to the accepted principles of international law, to recognize the Government concerned as being entitled to represent that Member State?

(2) If the answer to the first question is in the negative, what are the circumstances (if any) in which such an obligation can be regarded as existing?

During the general debate, various representatives including, among others, Paraguay and the Union of South Africa, expressed doubts concerning the advisability of attempting to adopt various criteria that had been proposed. Some representatives, including those of Australia, Belgium and Thailand, held that every case should be decided on its merits; others, including those of India and the United Kingdom, declared that the only criterion universally accepted in international law was that of effective control and authority over the territory of the State concerned.

The representatives of Costa Rica, El Salvador, Honduras and Uruguay, among others, supported the Cuban draft resolution. They considered the question important, because revolutions frequently brought about changes in governments and consequent alterations in the representation of States in the various organs of the United Nations. The United Nations, they said, had not set up any machinery for dealing with such cases. On the other hand, if each organ were free to decide for itself in the matter, the Organization might find itself faced with conflicting decisions. The argument that each organ of the United Nations was free to decide upon the validity of the credentials of its members, in accordance with its rules of procedure, seemed applicable only to the process of ascertaining whether those credentials had been properly prepared. When it was a case of deciding on the representation of a Member State after a change of government, the General Assembly should take the decision. They considered the Cuban draft to be in perfect harmony with the principles of the Charter. It was in fact quite normal that, before recognizing the representatives of a new government, the United Nations should make sure that the government in question exercised effective authority over the national territory and that its authority was based, not on the obedience of the population, but upon its general consent. The ability and willingness of a government to achieve the purposes of the Charter, to observe its principles and to fulfil the international obligations of the State, they argued, must also be taken into account.

The representatives of Burma, India, Norway, Venezuela and Yugoslavia, among others, supported the United Kingdom draft resolution. They thought that any government sufficiently stable to continue to function as the permanent and established government of a country was the spokesman for that country's people and could therefore claim to represent it on outside bodies. A change of government need not break the continuity of a State. Through a stable government, the United Nations could come into contact with the people of a State and vice versa. Consequently, the problem which arose was whether the government of the State in question exercised effective authority over the territory and was obeyed by the majority of the population. In their opinion, if the prerequisites of stability and permanence existed, the question of the recognition of representation should ultimately be decided by the General Assembly. The United Kingdom draft, they argued, provided the most just and equitable solution of the problem by suggesting a realistic basis for solution of concrete cases.

Representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR criticized the Cuban draft resolution. They argued that the Cuban draft contravened the practices of the United Nations in the matter. Every organ of the United Nations, they said, was fully empowered under its rules of procedure to decide independently as to the powers of representatives appointed by the governments exercising authority in their countries. No other questions, much less any questions relating to the domestic affairs of States should be taken into account when the question of representation was under discussion. They asserted that the Cuban draft suggesting

that the General Assembly should be given the right in every case to decide as to the legitimacy of the representation of Member States in the United Nations infringed the sovereign rights of people to self-determination and therefore was in contradiction with the Charter. Attempts to make representation in the United Nations contingent upon domestic conditions, they asserted, were also illegal and a violation of the Charter.

In the opinion of the representative of Yugoslavia, the Cuban draft resolution complicated the question by introducing a series of criteria likely to impede the recognition of new governments in the future and which would to some extent involve coercion, preventive sanctions and interference in the domestic affairs of States.

The representative of the USSR declared that the draft resolutions submitted by Cuba and the United Kingdom were fundamentally analogous. He said that both had the same purpose, namely to establish certain criteria—dangerous criteria—for the representation of Member States in the United Nations.

At its 24th meeting on 26 October, the Committee decided, by 29 votes to 6, with 17 abstentions, to establish a Sub-Committee to consider the item in the, light of all the proposals, amendments, suggestions and views presented in the course of debate. The Sub-Committee was composed of the representatives of Australia, Belgium, China, Cuba, Denmark, the Dominican Republic, Egypt, France, India, Turkey, the United Kingdom, the United States, Uruguay and Venezuela. It held nine meetings between 27 October and 15 November and agreed on a draft resolution which it adopted by 8 votes to 4, with 2 abstentions.

The draft resolution adopted by the Sub-Committee for consideration by the Ad Hoc Political Committee recommended that whenever more than one authority claimed to be the government entitled to represent a Member State in the United Nations and that question became the subject of controversy in the United Nations, the question should be considered in the light of the Principles and Purposes of the Charter and the circumstances of each case. The following factors were to be taken into consideration in determining any such question: (1) the extent to which the new authority exercised effective control over the territory of the Member State concerned and was generally accepted by the population; (2) the willingness of that authority to accept responsibility for the carrying out by the Member State of its obligations under the Charter; and (3) the extent to which that authority had been established through internal processes in the Member State When any such question arose, it should be considered by the General Assembly, or by its Interim Committee if the Assembly were not in session.

At the 57th meeting of the Ad Hoc Political Committee on 27 November, the Rapporteur of the Sub-Committee presented its report (A/AC.38/L.45) and the draft resolution adopted by it. The report was considered by the Committee at its 57th-60th meetings, held on 27 and 28 November.

Various amendments were submitted during the discussion of the Sub-Committee's draft resolution, including one submitted by Egypt (A/AC38/L.54), proposing the deletion of the factors enumerated in the proposal.

Belgium submitted an amendment (A/AC.38/L.50) calling for: (1) the deletion of paragraph 2 of the Sub-Committee's draft, which related to the consideration by the General Assembly, or by the Interim Committee, of the question regarding representation; and (2) the removal of any reference to "decisions" of the General Assembly or the Interim Committee in paragraphs 3 and 4 of the draft. The representative of Belgium explained that paragraph 2 of the draft was superfluous because its general intention was already covered by paragraph 3, which allowed the General Assembly, or, failing that, the Interim Committee, to take up the matter in case of need. He also declared that as the General Assembly or the Interim Committee could not judge except for themselves, their conclusions — when considered in relation to other United Nations organs — did not have the force of decisions. It was therefore better at that point to speak of the "attitude" or "position" of the General Assembly or the Interim Committee.

The USSR submitted an oral amendment calling for the deletion of the reference to the Interim Committee.

Mexico (A/AC.38/L.53) and Argentina (A/AC.38/L.56) also submitted amendments to the Committee's draft but later withdrew them.

The representatives of Bolivia, Canada, Chile, China and the United States, among others, supported the draft resolution submitted by the Sub-Committee. They thought that the draft resolution defined a body of guiding principles and remedied an important omission, while following the principles of the Charter and of international law. It was an objective proposal made at a time when the problem of the representation of a Member State had to be solved. It in no way implied either an intervention in the domestic affairs of a State or a violation of Article 7 with regard to the competence of the various organs of the United Nations in connexion with representation, as it was confined to a recommendation to be submitted to those organs for study. The United Nations, they said, ought to be as.repre-

sentative as possible; hence, it ought to see that governments which effectively represented the populations of the Member States took their seats on it. Under the draft resolution the United Nations would be able to achieve that truly representative character. They stated that the draft resolution presented by the Sub-Committee represented a satisfactory compromise solution of a complex and controversial political and legal issue.

The representatives of the Byelorussian SSR, Czechoslovakia, Poland, the Ukrainian SSR and the USSR opposed the Sub-Committee's draft resolution. They emphasized the fact that there was no need for a special decision regarding the representation of Member States, since the provisions of the Charter and the rules of procedure of various organs were sufficiently clear on that point. In accordance with the practice followed by the United Nations with regard to representation, each organ, they said, acting within its rules of procedure, recognized the credentials of representatives of a Member State appointed by the government which exercised real authority in the territory of that Member State. They argued that the Sub-Committee's draft resolution, under the pretext of establishing a uniform procedure, if adopted, would tend to legitimize the intervention of the General Assembly in the domestic affairs of Members of the United Nations. Moreover, if that draft were accepted, they said, it would be possible to prevent a Member from taking part in the work of the Organization, in defiance of the provisions of the Charter, of international law and of the rules of procedure of the Organization. They stated that the draft resolution illegally extended the rights and competence of the General Assembly and of the Interim Committee—which was an illegal organ—in order to enable them to interfere in the internal affairs of Member States. The object of the draft resolution, they asserted, was to prevent the Government of the People's Republic of China from taking part in the work of the United Nations. They were of the opinion that the "representative of the Kuomintang group" should be excluded from all United Nations organs and that the representative of the Government of the People's Republic of China should be admitted to them. Any attempt to lay down new tests for representation, they were convinced, would inevitably delay solution of the problem of the representation of the People's Republic of China.

Other representatives criticized certain aspects of the draft resolution. Thus, for example, the representatives of Argentina, Colombia, Sweden, Turkey and Venezuela, among others, criticized that part of the draft resolution dealing with the factors to be considered when the representation of a Member State was in issue. They said that effective control of territory was undoubtedly an objective factor, but the same could not be said of the agreement of the population, which could not be established without previous inquiry. Such an inquiry would amount to an intervention in matters essentially within the domestic jurisdiction of a State and be a breach of the provisions of Article 2, paragraph 7, of the Charter.

The representative of the Netherlands felt that the draft resolution lacked clarity and therefore would not advance the solution of the matter.

The representative of France asserted that the draft resolution had been the product of differing and often contradictory concepts. It succeeded in stating some of the principles involved in the problem, but it did so in vague and equivocal terms. It provided no uniform machinery applicable to all cases; consequently, the question remained unresolved.

The representative of Yugoslavia stated that he could not accept the Sub-Committee's compromise draft resolution because it was not clear and some of its provisions would permit interference in the internal affairs of States.

India could not accept the references to the Interim Committee. India stated that the General Assembly, not the Interim Committee of the Assembly, should decide on the representation of a Member State. No mention had been made of the Interim Committee in the Charter, and that organ, therefore, could not be regarded as representing all the Members of the United Nations.

Some representatives expressed their intention of abstaining on the vote of the Sub-Committee's draft resolution. The representative of the United Kingdom stated that he did not consider the draft satisfactory, but it had been sufficiently amended to permit his delegation to abstain from voting. Denmark observed that it seemed doubtful whether the draft would obtain general consent. In those circumstances, it would abstain from voting if the draft resolution were voted upon in its existing form. Pakistan also stated that even if certain amendments to the draft resolution were adopted, it would probably abstain from voting for it.

The Ad Hoc Political Committee, at its 60th meeting on 28 November, voted on the Sub-

Committee's draft resolution and the amendments to it. The Belgian and Egyptian amendments were adopted by varying votes; the USSR amendment was rejected by 35 votes to 6, with 11 abstentions. The draft resolution of the Sub-Committee, as amended, was adopted as a whole by 29 votes to 7, with 15 abstentions. A draft resolution (A/AC.38/L.55), calling for the study of the legal aspects of the question by the International Law Commission, submitted by the representative of the Dominican Republic at the Committee's 60th meeting, was withdrawn after the vote.

b. CONSIDERATION BY THE GENERAL ASSEMBLY

The report (A/1578 & Add.l) of the Ad Hoc Political Committee was considered by the General Assembly at its 325th plenary meeting on 14 December. An Egyptian amendment (A/1582) restoring the paragraph deleted by the Committee to the effect that when a question concerning representation arose, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly were not in session, was adopted by 25 votes to 10, with 8 abstentions. The draft resolution, as amended, was adopted by 36 votes to 6, with 9 abstentions.

Following the adoption of the resolution, the representatives of Czechoslovakia, Poland, and the USSR declared that it was unacceptable to them. They stated that the whole question of representation had been brought up to deprive the People's Republic of China of its legitimate place in United Nations organs. The establishment of criteria was intended to make it possible, when the question of the recognition of the representation of a given Member State arose, to make particular demands upon that State, and to deprive it of its legitimate rights under the Charter. This would amount to illegal expulsion of the Member State from the Organization. The use of such criteria would inevitably lead to arbitrary and discriminatory measures in respect of certain Member States, and would open the way to interference in the internal affairs of Members. Stating that there was no need for the establishment of any criteria whatsoever, or for any uniformity in practice, these representatives maintained that such problems should be decided independently by each organ of the United Nations in accordance with its own rules of procedure. Recognition should be given only to the representatives appointed by the governments which exercised effective power in given Member States, since only such governments could carry out the obligations of the Charter.

The representative of China, explaining why he had voted for the resolution, declared that although the resolution adopted fell somewhat short of the original draft submitted by Cuba in the Ad Hoc Political Committee and also of the draft submitted by the Sub-Committee, it nevertheless gave primary importance to the principles and purposes of the Charter as guiding considerations in the determination of the question of representation, and it established an appropriate machinery for the determination of such questions.

The text of the resolution (396(V)) read:

The General Assembly,

Considering that difficulties may arise regarding the representation of a Member State in the United Nations and that there is a risk that conflicting decisions may be reached by its various organs,

Considering that it is in the interest of the proper functioning of the Organization that there should be uniformity in the procedure applicable whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations, and this question becomes the subject of controversy in the United Nations,

Considering that, in virtue of its composition, the General Assembly is the organ of the United Nations in which consideration can best be given to the views of all Member States in matters affecting the functioning of the Organization as a whole,

1. Recommends that, whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations and this question becomes the subject of controversy in the United Nations, the question should be considered in the light of the Purposes and Principles of the Charter and the circumstances of each case;

2. Recommends that, when any such question arises, it should be considered by the General Assembly, or by the Interim Committee if the General Assembly is not in session;

3. Recommends that the attitude adopted by the General Assembly or its Interim Committee concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies;

4. Declares that the attitude adopted by the General Assembly or its Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

5. Requests the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate.

R. MATTERS BROUGHT TO THE ATTENTION OF THE SECURITY COUNCIL BUT NOT PLACED ON THE AGENDA

1. Cases Submitted by Haiti and the Dominican Republic to the Organization of American States

At a special meeting of the Council of the Organization of American States held on 6 January 1950, the Council took cognizance of a note presented on 3 January by the delegation of Haiti requesting that the Organ of Consultation be convoked in conformity with the Inter-American Treaty of Reciprocal Assistance, and also of a note presented at the meeting by the delegation of the Dominican Republic. The Council decided at that meeting to constitute itself provisionally as the Organ of Consultation and to appoint a committee to investigate on the spot the events, and the antecedents thereof, mentioned in the notes of Haiti and the Dominican Republic.

On 13 March 1950, the Investigating Committee reported to the Organ of Consultation its findings and recommendations relative to the petition of the Dominican Republic concerning the same situation in the Caribbean resulting from the support given by some governmental authorities to revolutionary movements and exile groups, with particular reference to the acquisition of armaments by groups in Cuba and Guatemala for the purpose of attacking the territory of the Dominican Republic. On 8 April the Council of the Organization adopted several decisions on the basis of the report of the Committee of Investigation declaring, inter alia, that the danger to international peace that might have arisen from the events affecting relations between Haiti and the Dominican Republic had fortunately been dispelled and that there had formerly existed within Cuba and Guatemala armed groups animated by the purpose of overthrowing by force the Government of the Dominican Republic; and resolving to appoint a committee of five to acquaint itself with the manner in which the Council's resolutions were carried out and to assist the interested parties in complying with the resolutions.

Those activities of the Council of the Organization of American States were outlined in a letter (S/1492) dated 23 May 1950 from its Chairman to the Secretary-General enclosing the report of the Investigating Committee of the Organ of Consultation and the Council's decisions. The Secretary-General informed the Security Council of these activities.

By letter dated 10 July 1950 (S/1607), the Secretary-General of the Organization of American States transmitted to the Secretary-General of the United Nations, for the information of the Security Council, the report submitted to the Governments of the States members of the Organization of American States on 30 June 1950 by the Special Committee for the Caribbeans.

2. Panel for Inquiry and Conciliation

At the 199th plenary meeting of the General Assembly on 28 April 1949, resolution 268 D (III)[146] was adopted providing for the establishment of a list of persons deemed to be well fitted to serve as members of commissions of inquiry or conciliation. In accordance with article 2 of the annex to that resolution, the Secretary-General, in letters dated 27 March (S/1476) and 3 May 1950 (S/1476/Add.l) to the President of the Security Council, communicated lists of persons who had been nominated by Governments of Member States for inclusion in the panel.

In a note dated 8 December 1950, the Secretary-General communicated to the members of the Security Council a consolidated list of the persons who had, by that date, been designated.

Biographical information on these individuals has been made available for consultation in the Department of Security Council Affairs of the Secretariat.

3. Complaint by the USSR against Greece

By letter dated 29 August 1950 (S/1735), the representative of the USSR, in his capacity as the President of the Security Council, drew the attention of the members of the Council to two communications, one from the All-Union Council of Trade Unions (USSR) and the other from relatives of Greek political prisoners appealing for cessation of terror against Greek democrats, of mass executions, and of the inhuman plan for the transfer of prisoners suffering from tuberculosis to islands where elementary medical care did not exist with a view to bringing about their destruction. He expressed the hope that the

[146] See Y.U.N. 1948-49, pp. 416-17.

Council and the General Assembly would adopt a decision to save the lives of these people who had waged a courageous struggle against Hitlerite invaders.

On 31 August, the item, "The unceasing terrorism and mass executions in Greece", proposed by the USSR was placed on the provisional agenda of the 493rd meeting of the Council.

Citing telegrams and letters (S/1735/Corr.1; S/1737), which reported inhuman torture and barbarous treatment of political prisoners in concentration camps, the representative of the USSR stated that the Security Council could not ignore all the acts of inhuman cruelty committed by the Greek monarcho-fascist regime. One of these communications stated that democrats who had played an active part in the national resistance movement were being tried by special military courts and were in danger of being executed simply because of their refusal to change their democratic beliefs.

The representative of the USSR therefore submitted a draft resolution (S/1746/Rev.l), which noting that the military courts in Greece were continuing to pass death sentences on the leaders of the national resistance movement and that the number of persons sentenced to death amounted to 2,877, noting also that at the present time in Greece 45 Greek democrats were before a military tribunal in Athens and were in danger of being shot, noting that the Greek Government was transferring political prisoners suffering from tuberculosis to desert islands and injurious climatic conditions, requested the Greek Government to suspend the execution of the death sentences of 45 active members of the national resistance movement, to prohibit further executions of political prisoners and not to allow the transfer of tubercular political prisoners to desert islands with an unhealthy climate.

A majority of the members of the Council, including the representatives of China, Cuba, Ecuador, the United Kingdom and the United States felt that the matters alleged did not really threaten peace and were not within the jurisdiction of the Security Council and could be discussed by the General Assembly at its fifth session.

The representative of Yugoslavia stated that the question should be admitted to the Council's agenda and that the Council should try to save the lives and alleviate the fate of the people concerned. Many of them, he stated, had waged a gallant struggle against Axis invaders and had fought in the post-war period for a democratic pattern of affairs in Greece.

At its 493rd meeting on 31 August, the Council decided, by 9 votes to 2 (USSR, Yugoslavia) not to include the item in its agenda.

In a reply dated 1 September 1950 (S/1749) to the charge brought against Greece by the USSR, the permanent representative of Greece stated that the persons whose defence the representative of the USSR had undertaken were not democrats with a stainless record or freely elected trade union leaders; that they had not been sentenced for their democratic convictions but for crimes which had covered Greece with blood and tears, that not a single death sentence had been carried out during the last months; and that special care was being taken for the maintenance of satisfactory sanitary conditions in the island where a few of those criminals were detained.