

in the consideration by the General Assembly of peace-keeping budgets.

General Assembly decision 48/470

Adopted without vote

Approved by Fifth Committee (A/48/819) without vote, 22 December (meeting 46); draft by Chairman (A/C.5/48/L.22); agenda item 136.
Meeting numbers. GA 48th session: 5th Committee 44, 46; plenary 87.

International Tribunal

During the year, the Security Council created the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. The first in a series of steps leading to that action was the adoption by the Council in 1992 of two resolutions. One held that persons who committed or ordered the commission of grave breaches of the 1949 Geneva Conventions for the protection of war victims were individually responsible in respect of such breaches and called on States and international humanitarian organizations to collate substantiated information relating to such breaches (771(1992));⁽¹⁷⁾ the other reiterated the call for substantiated information and requested the Secretary-General to establish an impartial Commission of Experts to examine information submitted and report to the Council on the Commission's conclusions (780(1992)).⁽¹⁸⁾

Communications. In accordance with the 1992 Security Council resolutions cited above, Austria⁽¹⁹⁾ Canada⁽²⁰⁾ Switzerland⁽²¹⁾ and the United States⁽²²⁾ conveyed information to the Secretary-General on acts of wilful killing, torture of prisoners, abuse of civilians in detention centres, obstruction of the delivery of food and medical supplies to civilians, deliberate attacks on non-combatants, wanton devastation and destruction of property, and mass forcible expulsion and deportation of civilians in the territory of the former Yugoslavia.

Additional submissions and related information were provided by Bosnia and Herzegovina⁽²³⁾ Croatia⁽²⁴⁾ and Yugoslavia (Serbia and Montenegro).⁽²⁵⁾

Also drawn to the attention of the Council were the 1993 reports of the five-member Commission of Experts, a report on the preliminary exploration of a mass grave site near Vukovar, Croatia, and the periodic reports of the Special Rapporteur of the Commission on Human Rights on the human rights situation in the territory of the former Yugoslavia (see PART THREE, Chapter X) as well as the report of an EC investigative mission on the massive detention and rape of women, particularly Muslim women, in Bosnia and Herzegovina (see below, under "Bosnia and Herzegovina").

Preparatory to the Tribunal's creation, submissions were transmitted to the Council by France⁽²⁶⁾ Italy⁽²⁷⁾ and Sweden, on behalf of CSCE⁽²⁸⁾ containing proposed modalities for the establishment

of such a tribunal, its attributes, features and institutional aspects.

In addition, the Commission of Experts, in its first interim report⁽²⁹⁾ which concluded that grave breaches and other violations of international humanitarian law had been committed in the territory of the former Yugoslavia, noted that, should the Council or another competent organ of the United Nations decide to establish an ad hoc war crimes tribunal, such an initiative would be consistent with the direction of the Commission's work.

SECURITY COUNCIL ACTION (22 February)

The Security Council convened on 22 February to consider the question of establishing an international tribunal. It invited Bosnia and Herzegovina and Croatia, at their request, to participate without vote under rule 37^a of the Council's provisional rules of procedure.

On the same date, the Council unanimously adopted **resolution 808(1993)**.

The Security Council,

Reaffirming its resolution 713(1991) of 25 September 1991 and all subsequent relevant resolutions,

Recalling paragraph 10 of its resolution 764(1992) of 13 July 1992, in which it reaffirmed that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches,

Recalling also its resolution 771(1992) of 13 August 1992, in which, *inter alia*, it demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law,

Recalling further its resolution 780(1992) of 6 October 1992, in which it requested the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolutions 771(1992) and 780(1992), together with such further information as the Commission of Experts may obtain, with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia,

Having considered the interim report of the Commission of Experts established by resolution 780(1992), in which the Commission observed that a decision to establish an ad hoc international tribunal in relation to events in the territory of the former Yugoslavia would be consistent with the direction of its work,

^aRule 37 of the Council's provisional rules of procedure states: "Any Member of the United Nations which is not a member of the Security Council may be invited, as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Council when the Security Council considers that the interests of that Member are specially affected, or when a Member brings a matter to the attention of the Security Council in accordance with Article 35(1) of the Charter."