

"9. *And further noting* that the restrictions on the passage of goods through the Suez Canal to Israel ports are denying to nations at no time connected with the conflict in Palestine valuable supplies required for their economic reconstruction, and that these restrictions together with sanctions applied by Egypt to certain ships which have visited Israel ports represent unjustified interference with the rights of nations to navigate the seas and to trade freely with one another, including the Arab States and Israel;

"10. *Calls upon* Egypt to terminate the restrictions on the passage of international commercial shipping and goods through the Suez Canal wherever bound and to cease all interference with such shipping beyond that essential to the safety of shipping in the Canal itself and to the observance of the international conventions in force."

The Palestine question remained on the list of matters of which the Security Council is seized.

THE INDIA-PAKISTAN QUESTION⁵²¹

INITIAL PROCEEDINGS

On 1 January 1948, the Government of India reported to the Security Council details of a situation existing between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, were drawing from Pakistan for operations against Jammu and Kashmir, a State which, having acceded to the Dominion of India, the Government of India declared to be part of India. The Government of India considered the giving of this assistance by Pakistan to be an act of aggression against India, and likely to endanger the maintenance of international peace and security, since in self-defence India might be compelled to enter Pakistan territory in order to take military action against the invaders. The Government of India, being anxious to proceed according to the principles and aims of the Charter, brought the situation to the attention of the Security Council under Article 35 of the Charter.⁵²²

On 15 January 1948 the Government of Pakistan emphatically denied that they were giving aid and assistance to the so-called invaders, or had committed any act of aggression against India. The Azad (Free) Kashmir Government was struggling for liberty, and was possibly being helped by a certain number of independent tribesmen and persons from Pakistan as volunteers. The complaint of India under Article 35 of the Charter contained a threat of direct attack against Pakistan. Under Article 35 of the Charter the Government of Pakistan further brought to the attention of the Security Council a situation existing between India and Pakistan which had already given rise to disputes tending to endanger the maintenance of international peace and security. The Pakistan Government had unsuccessfully tried over a period of many months to seek a solution of the dispute by the

methods described in Article 33 of the Charter. The main points of the charges concerned India's action in the State of Jammu and Kashmir, the unlawful occupation of the State of Junagadh and other States by Indian forces, the mass destruction of Muslims in a prearranged programme of genocide, and failure to implement agreements between the two countries.⁵²³

The question was included in the agenda at the 226th meeting on 6 January 1948 under the title "The Jammu and Kashmir question".⁵²⁴

The Security Council considered the question at the 226th-232nd, 234th-237th, 239th-246th, 250th-257th, 264th-266th, 269th, 284th-287th, 289th, 290th, 304th, 305th, 311th, 312th, 315th, 382nd, 399th, 457th, 458th, 463rd-471st, 532nd-540th, 543rd, 564th and 566th meetings, between 6 January 1948 and 31 December 1951.

Decision of 17 January 1948 (229th meeting): Request to the two parties not to take any steps which might aggravate the situation

By cablegram dated 6 January 1948, the President (Belgium) asked the Governments of India and Pakistan to refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation, thereby rendering more difficult any action by the Security Council.⁵²⁴

At the 227th meeting on 15 January 1948, the representative of India* declared that, having failed to achieve a settlement of the question through negotiations with the Government of Pakistan, the Government of India had to invoke the assistance of the Council to persuade the Government of Pakistan not to give direct or indirect aid to forces fighting in the State of Jammu and Kashmir.⁵²⁵

At the 228th and 229th meetings on 16 and 17 January respectively, the representative of Pakistan* declared that it was impossible to appraise the issues referred to the Council under Article 35 of the Charter without direct reference to the background of the matter, which he proceeded to state in some detail. He declared that the Jammu-Kashmir Government had refused or ignored offers of friendly discussions and had called in Indian troops without informing Pakistan of its intended action. He called for the evacuation of all elements foreign to the State, including tribesmen and Indian army troops as the best step to a solution of the question.⁵²⁶

At the 229th meeting on 17 January, the President submitted a draft resolution⁵²⁷ which, with one amendment to the preamble, was adopted by 9 votes in favour and none against, with 2 abstentions.⁵²⁸ The resolution⁵²⁹ read as follows:

"The Security Council,

"Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan,

⁵²³ S/646, and Corr.1, O.R., 3rd year, Suppl. for Nov. 1948, pp. 67-87.

⁵²⁴ S/636, 226th meeting: p. 4.

⁵²⁵ 227th meeting: pp. 11-28.

⁵²⁶ 228th and 229th meetings: pp. 90-120.

⁵²⁷ 229th meeting: pp. 120-121.

⁵²⁸ 229th meeting: p. 125. For the President's consultation with the parties, see chapter I, Case 26.

⁵²⁹ S/651.

⁵²¹ For the claim of the right of self-defence in conformity with Article 51 in connexion with this question, see chapter XI, Case 20.

⁵²² S/628, O.R., 3rd year, Suppl. for Nov. 1948, pp. 139-144.

"Recognizing the urgency of the situation,

"Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto; and in which they affirmed their intention to conform to the Charter,

"Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

"And further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon."

At the same meeting, at the suggestion of the representative of the United Kingdom, it was further decided that discussion of the question be adjourned until 20 January 1948 and that, during the interim period, the President should hold joint discussions with the representatives of India and Pakistan.⁵³⁰

Decision of 20 January 1948 (230th meeting): Establishment of the United Nations Commission

At the 230th meeting on 20 January, the President, as the representative of Belgium, submitted a draft resolution⁵³¹ which was adopted at the same meeting by 9 votes in favour and none against, with 2 abstentions.⁵³² The resolution read as follows:

"The Security Council,

"Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency,

"Adopts the following resolution:

"A. A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

"Each representative on the Commission shall be entitled to select his alternates and assistants.

"B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

⁵³⁰ 229th meeting: pp. 125-128. See chapter X, Case 5, for these conversations in relation to Article 33.

⁵³¹ S/654, 230th meeting: pp. 129-131.

⁵³² 230th meeting: p. 143. For discussion in relation to Article 34, see chapter X, Case 16. On the working of the Commission, see Organization and Procedure of United Nations Commissions: XI. The United Nations Commission for India and Pakistan (United Nations publications, 1950.X.1). See also chapter V, Case 6.

"C. The Commission is invested with a dual function:

"(1) to investigate the facts pursuant to Article 34 of the Charter;

"(2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council have been carried out.

"D. The Commission shall perform the functions described in clause C:

"(1) in regard to the situation in the Jammu and Kashmir State set out in the letter of the Representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and

"(2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

"E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

"F. The Commission, its members, alternate members, their assistants and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

"G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary."

Decision of 22 January 1948 (231st meeting): Adoption of agenda changing the title to "India-Pakistan question"

On 20 January 1948, the Government of Pakistan requested consideration of matters in the Pakistan complaint other than the Jammu-Kashmir question. At the 231st meeting on 22 January 1948, the title in the agenda "Jammu and Kashmir question" was altered to the "India-Pakistan question", with the understanding that the Kashmir question would be discussed first as a particular case of the India-Pakistan dispute, though this would not mean that consideration of the issues in the Pakistan complaint would be postponed until consideration of the Kashmir question had been completed.⁵³³ The President (Belgium), after further negotiations with the parties,⁵³⁴ submitted draft resolutions at the 237th meeting. The request of India to adjourn proceedings was discussed at the 243rd-246th meetings, and the Council thereafter discussed other aspects of the question.

⁵³³ S/655, 231st meeting: pp. 143-168. See chapter II, Case 42.

⁵³⁴ See chapter I, Case 27. Draft resolutions submitted were S/661, S/662, S/667, S/671 and S/679.

Decision of 21 April 1948 (286th meeting): Modification of instructions to the United Nations Commission for India and Pakistan

On the return of the Indian delegation the Council continued consideration of the question. The draft resolutions submitted to the Council eventually were replaced at the 284th meeting on 17 April by a joint draft resolution submitted by the representatives of Belgium, Canada, China, Colombia, the United Kingdom and the United States,⁵³⁵ which was voted upon paragraph by paragraph and adopted at the 286th meeting on 21 April 1948.⁵³⁶ The resolution read as follows:⁵³⁷

"The Security Council,

"Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir,

"Having heard the representative of India in support of that complaint and the reply and counter complaints of the representative of Pakistan,

"Being strongly of opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting,

"Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

"Considering that the continuation of the dispute is likely to endanger international peace and security,

"Reaffirms the Council's resolution of 17 January,

"Resolves that the membership of the Commission established by the resolution of the Council of 20 January 1948 shall be increased to five and shall include in addition to the membership mentioned in that resolution, representatives of _____ and _____, and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five;

"Instructs the Commission to proceed at once to the Indian sub-continent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution, and to this end,

"Recommends to the Governments of India and Pakistan the following measures as those which in

⁵³⁵ 284th meeting: p. 2; S/726, O.R., 3rd year, Suppl. for April 1948, pp. 8-12.

⁵³⁶ 286th meeting: pp. 9-40.

⁵³⁷ India and Pakistan communicated their views on the resolution in S/734/Corr.1 and in S/735 respectively (O.R., 3rd year, Suppl. for Nov. 1948, p. 66, and for May 1948, pp. 40-42). For communications between the Secretary-General and India regarding the plebiscite administrator, see S/756 (O.R., 3rd year, Suppl. for May 1948, pp. 92-93).

the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

"A. Restoration of peace and order

"1. The Government of Pakistan should undertake to use its best endeavours:

"(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;

"(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

"2. The Government of India should:

"(a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution of 20 January that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;

"(b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;

"(c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:

"(i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State;

"(ii) That as small a number as possible should be retained in forward areas;

"(iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

"3. The Government of India should agree that, until such time as the Plebiscite Administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

"4. After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to

protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

"5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

"B. *Plebiscite*

"6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the Ministerial level, while the plebiscite is being prepared and carried out.

"7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

"8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

"9. The Government of India should, at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

"10. (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

"(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

"(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.

"(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

"(e) The Administrator should have the right to communicate directly with the Government of the State and with the Commission of the Security Council and, through the Commission, with the

Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

"11. The Government of India should undertake to prevent, and to give full support to the Administrator and his staff in preventing, any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

"12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

"13. The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15 August 1947 have entered it for a lawful purpose.

"14. The Government of India should ensure that the Government of the State release all political prisoners and take all possible steps so that:

"(a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens;

"(b) There is no victimization;

"(c) Minorities in all parts of the State are accorded adequate protection.

"15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

"C. *General Provisions*

"16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.

"17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

"18. The Security Council Commission should carry out the tasks assigned to it herein."

Decision of 23 April 1948 (287th meeting): Nomination of members of the United Nations Commission

At the 287th meeting on 23 April 1948, the Council added Belgium and Colombia⁵³⁸ to the United Nations Commission for India and Pakistan.

At the 289th meeting on 7 May the President (France) nominated the United States⁵³⁹ as the fifth member of the Commission.⁵⁴⁰

Decision of 3 June 1948 (312th meeting): Instructions to the Commission

After further consideration, beginning at the 289th meeting on 7 May 1948, of other matters in the India-Pakistan question, the President (Syria) stated at the 312th meeting on 3 June that the best solution would be to enlarge the Commission's terms of reference to cover these matters, so that at a later date they could either be dealt with by the Commission or taken up again in the Council. He submitted a draft resolution which, with an amendment submitted by the representative of the United Kingdom, was adopted at the same meeting by 8 votes in favour and none against, with 3 abstentions.⁵⁴¹ The resolution⁵⁴² read as follows:

"The Security Council

Reaffirms its resolutions of 17 January 1948, 20 January 1948 and 21 April 1948;

Directs the Commission to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21 April 1948,

And directs the Commission further to study and report to the Security Council when it considers it appropriate on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15 January 1948, in the order outlined in Paragraph D of the resolution of the Council dated 20 January 1948."

Decision of 8 June 1948 (315th meeting): Explanation of Council's resolution of 3 June 1948

At the 315th meeting on 8 June 1948, the President (Syria) stated that he had received a letter from the representative of India⁵⁴³ conveying a message from the Prime Minister of India expressing the surprise of his Government that the Council should have thought fit, in its resolution of 3 June 1948, to direct the Commission to study and report on matters other than the Jammu and Kashmir question.

At the suggestion of the representative of China, the Council agreed that the President should reply to the Indian Prime Minister explaining that "what the Security Council did . . . was to tell the Commission to go ahead, to deal first with the Kashmir question, and then, when it deemed it appropriate, to study and

report on the other three questions raised by the delegation of Pakistan".⁵⁴⁴

Decision of 25 November 1948 (382nd meeting): Expression of support for the United Nations Commission and endorsement of its appeal to both parties to refrain from any prejudicial action

The Commission proceeded to the sub-continent of India in July 1948 and submitted an Interim Report on 9 November 1948.⁵⁴⁵ The report was discussed at the 382nd meeting of the Council on 25 November 1948.

The representative of Pakistan* informed the Council that Pakistan forces, which had entered Kashmir during the previous six months, had taken a purely defensive action, but recent Indian military advances in Kashmir might force Pakistan to take new military counter measures.

The Council agreed, on the suggestion of the President (Argentina), that he convey to the Commission the following: "Firstly, it (the Security Council) desires to inform the Commission appointed to intervene in the dispute between India and Pakistan that it (the Commission) can count on the full support of the Security Council and that the Council wishes it to continue its work for the purpose of arriving at a peaceful solution. Secondly, it desires to bring to the attention of the Governments of India and Pakistan the need for refraining from any action which might aggravate the military or the political situation and consequently prejudice the negotiations which are at present being carried on for the purpose of arriving at a final and peaceful understanding in the matter."⁵⁴⁶

Decision of 13 January 1949 (399th meeting): Instructions to the United Nations Commission to return to the sub-continent of India

The Commission obtained a suspension of hostilities in the state of Jammu and Kashmir, and the cease-fire order came into effect on 1 January 1949.

By letter dated 10 January 1949, the Chairman and the Rapporteur of the Commission forwarded to the President of the Council the Commission's Second Interim Report covering the period of the Commission's activities from 25 September 1948 to 5 January 1949, when it adopted a resolution embodying the basic principles for a plebiscite in the state of Jammu and Kashmir.⁵⁴⁷

At the 399th meeting on 13 January 1949, the Council considered the report and the President (Canada) expressed the view of the Council that the Commission should "return to the sub-continent of India, at its earliest convenience, in order to continue the work which it has already so far advanced".⁵⁴⁸

Decision of 17 December 1949 (457th meeting): Request to the President of the Council to meet informally with the two parties

At the 457th meeting on 17 December, the Third Interim Report of the United Nations Commission was

⁵³⁸ 287th meeting: p. 3.

⁵³⁹ 289th meeting: p. 8.

⁵⁴⁰ By letter (S/669) dated 10 February 1948, the representative of India had transmitted a message to the Secretary-General from the Prime Minister of India naming Czechoslovakia as his Government's nominee on the Commission. By letter (S/735) dated 30 April 1948, addressed to the President of the Security Council, the Foreign Minister of Pakistan stated that his Government had nominated Argentina as Pakistan's nominee on the Commission.

⁵⁴¹ 312th meeting: pp. 16-21.

⁵⁴² S/819, 312th meeting: p. 21.

⁵⁴³ S/825, O.R., 3rd year, Suppl. for June 1948, pp. 78-79.

⁵⁴⁴ 315th meeting: pp. 2-7.

⁵⁴⁵ S/1100, O.R., 3rd year, Suppl. for Nov. 1948, pp. 17-144.

⁵⁴⁶ 382nd meeting: pp. 2-26.

⁵⁴⁷ S/1196, O.R., 4th year, Suppl. for Jan. 1949.

⁵⁴⁸ 399th meeting: p. 8.

presented to the Council by the Chairman of the Commission.⁵⁴⁹ The Commission considered that a single person could more effectively conduct further negotiations. He should be given broad authority to endeavour to bring the two Governments together on all issues and should have an undivided responsibility. The representative of Czechoslovakia on the Commission submitted a minority report⁵⁵⁰ recommending the establishment of a new commission, composed of representatives of all States members of the Security Council, to carry out its mediation task without delay, at Headquarters, and the parties availing themselves of the opportunity to reach an understanding as to differences in connexion with the Commission's resolutions of 13 August 1948 and 5 January 1949.

At the same meeting, the Council by a vote of 9 in favour and none against, with 2 abstentions, adopted a suggestion by the representative of Norway, that the President (Canada) should meet informally with the representatives of India and Pakistan, examine the possibilities of finding a mutually satisfactory basis and report to the Security Council.⁵⁵¹

At the 458th meeting on 29 December, the Council heard from its President (Canada), General McNaughton, an account of his talks with the representatives of India and Pakistan and agreed that he should continue his negotiations with the two parties, if necessary, even after the expiration of his term of office as President of the Council on 31 December 1949.⁵⁵²

Decision of 14 March 1950 (470th meeting): Appointment of a United Nations Representative for India and Pakistan

In response to an invitation agreed upon by the Security Council at its 462nd meeting on 17 January 1950,⁵⁵³ General McNaughton on 3 February 1950 communicated a full report of his negotiations with the parties since 17 December 1949.

At its 463rd meeting on 7 February, the Council began consideration of General McNaughton's report.⁵⁵⁴

At the 467th meeting on 24 February, the representatives of Cuba, Norway, the United Kingdom and the United States submitted a joint draft resolution⁵⁵⁵ which was adopted at the 470th meeting on 14 March by 8 votes in favour and none against, with 2 abstentions.⁵⁵⁶

The resolution read as follows:

"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,

"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 paragraph 2 of General McNaughton's proposal or of such modifications of those principles as may be mutually agreed;

"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 those 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,

⁵⁴⁹ S/1430/Rev.1, O.R., 4th year, Special Suppl. No. 7.

⁵⁵⁰ S/1430/Add.3, O.R., 4th year, Special Suppl. No. 7, pp. 195-204.

⁵⁵¹ 457th meeting: pp. 5-8.

⁵⁵² 458th meeting: pp. 4-21. See chapter I, Cases 31 and 32.

⁵⁵³ 462nd meeting: p. 16.

⁵⁵⁴ S/1453, O.R., 5th year, Suppl. for Jan.-May 1950, pp. 3-16.

⁵⁵⁵ S/1469.

⁵⁵⁶ 470th meeting: p. 4. One member was absent. On the United Nations Representative for India and Pakistan, see chapter V, Case 8.

“(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.”

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, none against, with 2 abstentions.⁵⁵⁷

Decision of 30 March 1951 (539th meeting): Appointment of a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon: instructions to the United Nations Representative

By letter dated 15 September 1950,⁵⁵⁸ Sir Owen Dixon, United Nations Representative for India and Pakistan, transmitted his report to the Council and requested formal termination of his position as United Nations Representative.

At the 532nd meeting on 21 February 1951, when the Council took up for consideration the report of the United Nations Representative, the representatives of the United Kingdom and the United States submitted a joint draft resolution which, as revised on 21 March,⁵⁵⁹ was adopted at the 539th meeting on 30 March 1951 by 8 votes in favour and none against, with 3 abstentions.⁵⁶⁰ The resolution read as follows:

“*The Security Council,*

“*Having received and noted* the report of Sir Owen Dixon, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 14 March 1950,

“*Observing* that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, and

have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

“*Observing* that on 27 October 1950 the General Council of the ‘All Jammu and Kashmir National Conference’ adopted a resolution recommending the convening of a constituent assembly for the purpose of determining the ‘future shape and affiliations of the State of Jammu and Kashmir’; observing further from statements of responsible authorities that action is proposed to convene such a constituent assembly and that the area from which such a constituent assembly would be elected is only a part of the whole territory of Jammu and Kashmir,

“*Reminding* the Governments and authorities concerned of the principle embodied in the Security Council resolutions of 21 April 1948, 3 June 1948 and 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

“*Affirming* that the convening of a constituent assembly as recommended by the General Council of the ‘All Jammu and Kashmir National Conference’, and any action that Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle,

“*Declaring* its belief that it is the duty of the Security Council in carrying out its primary responsibility for the maintenance of international peace and security to aid the parties to reach an amicable solution of the Kashmir dispute and that a prompt settlement of this dispute is of vital importance to the maintenance of international peace and security,

“*Observing* from Sir Owen Dixon’s report that the main points of difference preventing agreement between the parties were:

“(a) The procedure for and the extent of demilitarization of the State preparatory to the holding of a plebiscite, and

“(b) The degree of control over the exercise of the functions of government in the State necessary to ensure a free and fair plebiscite,

“1. *Accepts*, in compliance with his request, Sir Owen Dixon’s resignation and expresses its gratitude to Sir Owen for the great ability and devotion with which he carried out his mission;

“2. *Decides* to appoint a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon;

“3. *Instructs* the United Nations Representative to proceed to the sub-continent and, after consultation with the Governments of India and Pakistan,

⁵⁵⁷ 471st meeting: p. 5. One member was absent.

⁵⁵⁸ S/1791, O.R., 5th year, Suppl. for Sept.-Dec. 1950.

⁵⁵⁹ S/2017/Rev.1, O.R., 6th year, Suppl. for Jan.-March 1951, pp. 25-27; and Special Suppl. No. 2, pp. 24-26.

⁵⁶⁰ 539th meeting: p. 15.

to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949;

"4. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in effecting the demilitarization of the State of Jammu and Kashmir;

"5. *Instructs* the United Nations Representative to report to the Security Council within three months from the date of his arrival on the sub-continent; if, at the time of this report, he has not effected demilitarization in accordance with paragraph 3 above, or obtained the agreement of the parties to a plan for effecting such demilitarization, the United Nations Representative shall report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the agreed resolutions of 13 August 1948 and 5 January 1949 which he considers must be resolved to enable such demilitarization to be carried out;

"6. *Calls upon* the parties, in the event of their discussions with the United Nations Representative failing in his opinion to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations Representative in accordance with paragraph 5 above, such arbitration to be carried out by an arbitrator, or a panel of arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties;

"7. *Decides* that the military observer group shall continue to supervise the cease fire in the State;

"8. *Requests* the Governments of India and Pakistan to ensure that their agreement 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 and to refrain from any action likely to prejudice a just and peaceful settlement;

"9. *Requests* the Secretary-General to provide the United Nations Representative for India and Pakistan with such services and facilities as may be necessary in carrying out the terms of this resolution."

At the 543rd meeting on 30 April 1951, the Council appointed Dr. Frank P. Graham as United Nations Representative for India and Pakistan by 7 votes to none, with 4 abstentions.⁵⁶¹

Decision of 29 May 1951 (548th meeting): Message from the President of the Security Council to the Governments of India and Pakistan concerning reports that a constituent assembly would be convoked in Kashmir

By letters dated 4 and 10 May 1951,⁵⁶² the representative of Pakistan brought to the attention of the

Council reports that the authorities in Jammu and Kashmir were convening a constituent assembly to decide the future of the state. The Council was requested to stop the course of action which would prejudice further negotiations between India and Pakistan and create an explosive situation.

At the 548th meeting on 29 May 1951, the President (Turkey) submitted to the Council a proposed text of the letter which various delegations suggested should be sent by him to the Governments of India and Pakistan.

The text of the President's letter read as follows:⁵⁶³

"I have the honour to call your attention to the important principles regarding the India-Pakistan question restated in the Security Council resolution of 30 March 1951 (S/2017/Rev.1).

"Members of the Security Council, at its 548th meeting held on 29 May 1951, have heard with satisfaction the assurances of the representative of India that any constituent assembly that may be established in Srinagar is not intended to prejudice the issues before the Security Council or to come in its way.

"On the other hand, the two communications to me, as President of the Council, from the representative of Pakistan, set forth in documents S/2119 and S/2145, contain reports which, if they are correct, indicate that steps are being taken by the Yuvaraja of Jammu and Kashmir to convoke a constituent assembly, one function of which, according to Sheikh Abdulla, would be 'a decision on the future shape and affiliation of Kashmir'.

"It is the sense of the Security Council that these reports, if correct, would involve procedures which are in conflict with the commitments of the parties to determine the future accession of the State by a fair and impartial plebiscite conducted under United Nations auspices.

"It seems appropriate to recall the request contained in the resolution of 30 March that the parties create and maintain 'an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement'. The Council trusts that the Governments of India and Pakistan will do everything in their power to ensure that the authorities in Kashmir do not disregard the Council or act in a manner which would prejudice the determination of the future accession of the State in accordance with the procedures provided for in the resolutions of the Council and of the United Nations Commission for India and Pakistan.

"As President of the Security Council, I have attempted to summarize the general line of the Security Council's discussion on this matter, a full record of which is attached."

At the same meeting, the text of the letter was adopted by 9 votes in favour and none against, with 2 abstentions.⁵⁶⁴

⁵⁶¹ 543rd meeting: p. 4.

⁵⁶² S/2119 and S/2145, O.R., 6th year, Suppl. for April-June 1951, pp. 98-99 and 121-122.

⁵⁶³ 548th meeting: pp. 21-22.

⁵⁶⁴ 548th meeting: p. 23.

Decision of 10 November 1951 (566th meeting): Instruction to the United Nations Representative for India and Pakistan to continue his efforts to obtain agreement on a plan for demilitarizing Jammu and Kashmir, and to report to the Security Council within six weeks

By letter dated 15 October 1951⁵⁶⁵ the United Nations Representative for India and Pakistan transmitted his first report to the Security Council.

At the 566th meeting on 10 November, the representatives of the United Kingdom and the United States submitted a joint draft resolution which was adopted⁵⁶⁶ at the same meeting by 9 votes in favour, none against, with 2 abstentions.⁵⁶⁷ The resolution read as follows:

"The Security Council,

"Having received and noted the report of Dr. Frank Graham, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 30 March 1951, and having heard Dr. Graham's address to the Council on 18 October,

"Noting with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan,

"1. Notes with gratification the declared agreement of the two parties to those parts of Dr. Graham's proposals which reaffirm their determination to work for a peaceful settlement, their will to observe the cease-fire agreement and their acceptance of the principle that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations;

"2. Instructs the United Nations Representative to continue his efforts to obtain agreement of the parties on a plan for effecting the demilitarization of the State of Jammu and Kashmir;

"3. Calls upon the parties to co-operate with the United Nations Representative to the fullest degree in his efforts to resolve the outstanding points of difference between them;

"4. Instructs the United Nations Representative to report to the Security Council on his efforts, together with his views concerning the problems confided to him, not later than six weeks after this resolution comes into effect."

By letter dated 18 December 1951, the United Nations Representative transmitted his second report⁵⁶⁸ in accordance with the resolution.

⁵⁶⁵ S/2375 and S/2375/Corr.1, O.R., 6th year, Special Suppl. No. 2, pp. 1-38.

⁵⁶⁶ S/2392.

⁵⁶⁷ 566th meeting: p. 19.

⁵⁶⁸ S/2448, O.R., 7th year, Special Suppl. No. 1, pp. 1-37.

⁵⁶⁹ S/694, O.R., 3rd year, Suppl. for Jan., Feb., Mar. 1948, pp. 31-34.

THE CZECHOSLOVAK QUESTION

INITIAL PROCEEDINGS

By letter dated 12 March 1948,⁵⁶⁹ Chile requested the Secretary-General, under Article 35 (1), to refer to the Security Council the communication of 10 March 1948 from Mr. Papanek, "permanent representative of Czechoslovakia", alleging that the political independence of Czechoslovakia had been violated by the threat of the use of force by the USSR in violation of Article 2 (4). The representative of Chile requested that the Council, in accordance with Article 34, should investigate the reported events which constituted "a threat to international peace and security".

At the 268th meeting on 17 March 1948 the Council included the question in the agenda.⁵⁷⁰ In the debate on the adoption of the agenda, the representatives of the United Kingdom and the United States stressed⁵⁷¹ that the question before the Council was essentially the complaint of recourse by the USSR to the threat of the use of force, contrary to Article 2 (4).⁵⁷² The representative of the USSR repudiated the allegation.⁵⁷³

The Council considered the Czechoslovak question at its 268th, 272nd, 273rd, 276th, 278th, 281st, 288th, 300th, 303rd and 305th meetings between 17 March and 26 May.

Decision of 24 May 1948 (303rd meeting): Rejection of draft resolution submitted by the representative of Chile and sponsored by the representative of Argentina

At the 281st meeting on 12 April 1948, the representative of Chile* submitted a proposal⁵⁷⁴ providing for the Security Council "to appoint a sub-committee of . . . members" and instruct "this sub-committee to receive or to hear . . . evidence, statements and testimonies and to report to the Security Council at the earliest possible time".

At the 288th meeting on 29 April, the representative of Argentina proposed that a vote be taken upon the proposal made by the representative of Chile and that the sub-committee should consist of three members.⁵⁷⁵

At the 303rd meeting on 24 May, the proposal was not adopted. There were 9 votes in favour and 2 against (1 vote against being that of a permanent member).⁵⁷⁶

At the same meeting, the representative of Argentina submitted a draft resolution (S/782) to entrust

⁵⁷⁰ 268th meeting: pp. 101-102. For consideration of the inclusion of the question in the agenda, see chapter II, Case 32; on the claim of domestic jurisdiction, see chapter XII, Case 16.

⁵⁷¹ 268th meeting: pp. 94, 99.

⁵⁷² In the discussion at the 281st and 288th meetings, the representatives of the United States and Belgium referred in similar terms to Article 2 (4) in connexion with the question before the Council. See 281st meeting: pp. 25-26; 288th meeting: p. 18.

⁵⁷³ 281st meeting: pp. 3-4.

⁵⁷⁴ 281st meeting: p. 2. For text, see chapter X, Case 17.

⁵⁷⁵ 288th meeting: p. 15.

⁵⁷⁶ 303rd meeting: pp. 28-29. For consideration of voting procedure and of the relation of Article 34 to the proposal, see chapter IV, Case 49; chapter V, Case 67; chapter X, Case 17.