

cil would defer consideration of the question and would invite a representative of the People's Republic of China to attend when the question was discussed. The Council also had before it a USSR draft resolution,<sup>646</sup> reintroduced at the 503rd meeting on 26 September 1950, to invite a representative of the People's Republic of China to participate forthwith in the discussion on the question.

At the 505th meeting on 28 September, the Council voted first on the Chinese proposal, which was rejected by 2 votes in favour, 6 against, and 3 abstentions. The Council then rejected the USSR draft resolution, as amended by the United Kingdom, by 6 votes in favour, 3 against, and 2 abstentions. Finally, the Council voted on the Ecuadorean proposal, the operative part of which was rejected by 6 votes in favour, 4 against and 1 abstention. The Council member who abstained later explained his vote and stated that his vote should be considered as favourable to the operative part of the draft resolution. Objections to this procedure having been made, the Council meeting adjourned.<sup>647</sup>

At the 506th meeting on 29 September, the representative of Ecuador reintroduced his draft resolution<sup>648</sup> which was put to the vote, paragraph by paragraph. The Council then voted on the draft resolution as a whole, as amended, with the omission of the last paragraph of the preamble, and adopted it by 7 votes in favour, 3 against, and 1 abstention.<sup>649</sup> The resolution read as 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; [9 votes to none, with 2 abstentions]*

*"Considering that, in the event of a complaint regarding situations or facts similar to those mentioned above, the Council may hear the complainants; [8 votes to none, with 3 abstentions]*

*"Considering 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; [7 votes to 2, with 2 abstentions]*

*"Having noted the declaration of the People's Republic of China regarding the armed invasion of the Island of Taiwan (Formosa); [7 votes to 1, with 3 abstentions]*

*"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)".<sup>650</sup> [7 votes to 4]*

*Decisions of 30 November 1950 (530th meeting): Rejection of draft resolution submitted by the representative of the USSR and of draft resolution by the People's Republic of China*

On 2 September 1950, the representative of the USSR submitted a draft resolution<sup>651</sup> to condemn the acts of the United States Government as an act of aggression and an intervention in the internal affairs of China, and to propose to the United States Government the immediate withdrawal of all its air, sea and land forces from the island of Taiwan and from other territories belonging to China.

At the 530th meeting on 30 November 1950, the USSR draft resolution and the draft resolution submitted by the People's Republic of China and sponsored by the representative of the USSR were rejected by 1 vote in favour, 9 against and 1 member not participating in the vote.<sup>652</sup>

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

#### COMPLAINT OF BOMBING BY AIR FORCES OF THE TERRITORY OF CHINA

##### INITIAL PROCEEDINGS

By cablegram dated 27 August 1950,<sup>653</sup> the People's Republic of China charged that, on 27 August, military aircraft of the United States forces in Korea had invaded the air of the People's Republic of China and caused material damage. He proposed that the Council condemn the United States forces in Korea for invading China's air, and that the Council "take immediate measures to bring about the complete withdrawal of all the United States aggression forces from Korea" in order to avoid an aggravation of the situation and to facilitate the peaceful settlement of the Korean question by the United Nations.

At the 493rd meeting on 31 August, the Council included the question in the agenda under the title, "Complaint of bombing by air forces of the territory of China".

The Council discussed the question at its 493rd, 497th, 499th and 501st meetings, held between 31 August and 12 September 1950.

*Decision of 12 September 1950 (501st meeting): Rejection of draft resolution submitted by the representative of the United States*

At the 501st meeting on 12 September 1950, the representative of the United States submitted a draft

<sup>650</sup> For discussion regarding participation, see chapter III, Case 54 and Case 65.

<sup>651</sup> S/1757, 530th meeting: p. 21.

<sup>652</sup> 530th meeting: pp. 21-22.

<sup>653</sup> S/1722, O.R., 5th year, Suppl. for June-Aug. 1950, pp. 144-145; see also S/1743, cablegram dated 30 August 1950, O.R., 5th year, Suppl. for June-Aug. 1950, p. 156. On inclusion in the agenda, see chapter II, Case 25.

<sup>646</sup> S/1732, 492nd meeting: p. 15.

<sup>647</sup> 505th meeting: pp. 20-29.

<sup>648</sup> S/1823/Corr.1, 506th meeting: pp. 3-5.

<sup>649</sup> 506th meeting: p. 5. For discussion on the legal effect of this vote, see chapter IV, Case 99.

resolution<sup>654</sup> to establish a commission to investigate on the spot and report as soon as possible with regard to the allegations.

At the same meeting, the draft resolution was not adopted. There were 7 votes in favour, 1 against (being that of a permanent member), 2 abstentions, and 1 member not participating in the vote.<sup>655</sup>

*Decision of 12 September 1950 (501st meeting): Rejection of draft resolution submitted by the representative of the USSR*

The representative of the USSR submitted on 31 August 1950 a draft resolution<sup>656</sup> to condemn the "illegal acts of the Government of the United States of America", to place on that Government "full responsibility" and to call upon the United States "to prohibit such illegal acts".

At the 501st meeting on 12 September 1950, the draft resolution was rejected by 8 votes in favour, 1 against, with 1 abstention, and 1 member not participating in the vote.<sup>657</sup>

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

#### THE ANGLO-IRANIAN OIL COMPANY CASE<sup>658</sup>

##### INITIAL PROCEEDINGS

By letter dated 29 September 1951,<sup>659</sup> the United Kingdom requested the inclusion of the following item on the provisional agenda of the Security Council:

"Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company Case."

The United Kingdom recalled that the International Court of Justice had notified the Council of the provisional measures indicated by the Court on 5 July 1951 under Article 41 (2) of its statute.<sup>660</sup> The United Kingdom had accepted the findings of the Court, but Iran had rejected them and had ordered the expulsion from Iran of all the remaining staff of the Company, contrary to the provisional measures indicated by the Court. The letter continued:

"His Majesty's Government in the United Kingdom are gravely concerned at the dangers inherent in this situation and at the threat to peace and security that may thereby be involved."

Appended to the letter of submission was a draft resolution<sup>661</sup> to call upon the Government of Iran to act in conformity with the provisional measures indicated by the International Court and to request it to

inform the Council of the steps taken to carry out the resolution of the Council.

At the 559th meeting on 1 October 1951, after the Council had included the question in the agenda, the representative of the United Kingdom stated:<sup>662</sup>

"The Council will, of course, bear in mind the position of the Court as the principal judicial organ of the United Nations; both Article 92 of the Charter and Article 1 of the Court's Statute establish this. Its position in this capacity has been affirmed by the Court itself; I would direct representatives' attention, for instance, to the Peace Treaties case. To act in conformity with the decisions and findings of the Court must, therefore, necessarily be to act in conformity with purposes and principles of the United Nations. This is a cardinal reason justifying both the present recourse to the Security Council on the part of the United Kingdom Government and its request for support, on the part of the other members of the Council, of the draft resolution which it has submitted..."

The Council considered the question at the 559th through 563rd meetings between 1 and 17 October and at the 565th meeting on 19 October 1951.<sup>663</sup>

*Decision of 19 October 1951 (565th meeting): Adjournment of debate*

At the 560th meeting on 15 October, the representative of the United Kingdom, in view of the changed situation, including the expulsion of the remaining Anglo-Iranian Oil Company staff, submitted a revised draft resolution.<sup>664</sup> Amendments submitted jointly by the representatives of India and Yugoslavia at the 561st meeting on 16 October<sup>665</sup> were accepted by the representative of the United Kingdom at the 562nd meeting on 17 October. The draft resolution, in its second revision<sup>666</sup> called for the resumption of negotiations in order to make further efforts to resolve the differences in accordance with the Purposes and Principles of the Charter and the avoidance of any action which would have the effect of further aggravating the situation or prejudicing the positions of the parties.

At the 562nd meeting on 17 October, the representative of Ecuador submitted a draft resolution the operative part of which read:<sup>667</sup>

"The Security Council,

"Without deciding on the question of its own competence,

"Advises the parties concerned to reopen negotiations as soon as possible with a view to making a fresh attempt to settle their differences in accordance with the Purposes and Principles of the United Nations Charter."

<sup>654</sup> S/1752, 501st meeting: pp. 4-5. For consideration of the draft resolution, see chapter X, Case 19.

<sup>655</sup> 501st meeting: p. 28.

<sup>656</sup> S/1745/Rev.1, 501st meeting: p. 3.

<sup>657</sup> 501st meeting: p. 28.

<sup>658</sup> For consideration of the competence of the Council in relation to Article 41 of the Statute of the International Court, see chapter VI, Case 29. For the claim of domestic jurisdiction, see chapter XII, Case 19, p. 29.

<sup>659</sup> S/2357, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 1-2.

<sup>660</sup> S/2239, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, p. 1.

<sup>661</sup> S/2358, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 2-3.

<sup>662</sup> 559th meeting: pp. 21-22. On inclusion in the agenda, see chapter II, Cases 26 and 37.

<sup>663</sup> For discussion in relation to Chapter VI of the Charter, see chapter X, Case 26.

<sup>664</sup> S/2258/Rev.1, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 3-4.

<sup>665</sup> S/2379, 561st meeting: pp. 15-16.

<sup>666</sup> S/2258/Rev.2, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 4-5.

<sup>667</sup> S/2380, 562nd meeting: p. 10.