

not much could be gained from prolonged discussion at that stage and that if there were no objections he would close the meeting, leaving the matter on the agenda in case further discussion should prove necessary. There was no objection.

COMPLAINT BY PORTUGAL (GOA)

INITIAL PROCEEDINGS

By letter ^{454/} dated 18 December 1961, the permanent representative of Portugal informed the President of the Security Council that the Government of India had followed up its build-up of armed forces and provocation—some of which had been mentioned in his letters to the President of the Council, dated 8,^{455/} 11,^{456/} and 16^{457/} December 1961—with a full-scale unprovoked armed attack on the territories of Goa, Damao and Diu, comprising the Portuguese State of India. The aggression now committed was a flagrant violation of the sovereign rights of Portugal and of the Charter of the United Nations. Consequently, the Government of Portugal requested the President of the Council to convene the Security Council immediately to put an end to India's act of aggression, to order an immediate cease fire and the withdrawal forthwith of all the invading Indian forces from the Portuguese territories of Goa, Damao and Diu. In the meantime and until the Security Council had taken the above-mentioned measures, Portugal had no alternative but to defend itself against aggression.

At the 987th meeting on 18 December 1961, the Security Council decided by 7 votes in favour to 2 against, with 2 abstentions, to include the item in its agenda.^{458/}

The Security Council considered the question at its 987th and 988th meetings on 18 December 1961. The representatives of Portugal and India were invited to take part in the discussion.^{459/}

Decisions of 18 December 1961 (988th meeting):

- (i) Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic;
- (ii) Rejection of the joint draft resolution submitted by France, Turkey, the United Kingdom and the United States

^{454/} S/5030, O.R., 10th year, Suppl. for Oct.-Dec. 1961, pp. 205-206.

^{455/} S/5016, *ibid.*, pp. 181-182. In the letter, Portugal complained of movements of Indian naval units near the territorial waters of Goa and of military forces at the frontiers of Goa, of violations of the airspace of Goa and Diu, and of a campaign of false charges of the Indian radio, Press and other media against Goa and the Portuguese Government. The Government of Portugal considered that it was being made a victim of unprovoked aggression which constituted a grave threat to peace and security.

^{456/} S/5018, *ibid.*, pp. 183-184. In the letter, it was stated that India had continued to accumulate near the Indo-Portuguese frontier considerable military, naval and air forces and that violations of the Portuguese frontier and airspace by Indian armed forces had multiplied. Indian propaganda media had continued to carry on a campaign of accusations. The Portuguese Government, under Article 35 (1), drew the attention of the Security Council to those facts as it considered imminent a military aggression and attack by the Indian Government on Portuguese territory.

^{457/} S/5024, *ibid.*, p. 204. In the letter were listed incidents which took place from 9 to 11 December 1961.

^{458/} 987th meeting: para. 7. On the inclusion of the question in the agenda, see chapter II, Case 6.

^{459/} 987th meeting: para. 9.

At the 987th meeting the representative of India* stated that the Portuguese Government had refused repeated requests of the Government of India to negotiate the transfer of the Portuguese possessions in India and invented a legal fiction that they were part of Portugal. The question before the Council was a colonial question in the sense that part of Indian territory had been illegally occupied by conquest by Portugal. Portugal had no sovereign right over that territory and there was no legal frontier between India and Goa since Goa was an integral part of India. Therefore, a question of aggression could not arise. The only thing the Security Council could do was to tell Portugal to vacate Goa, Damao and Diu, and to give effect to the numerous resolutions of the General Assembly with regard to the freedom of dependent peoples.^{460/}

At the 988th meeting on 18 December 1961, the representative of the United States introduced a joint draft resolution^{461/} co-sponsored by France, Turkey and the United Kingdom, whereby the Security Council would: (1) call for an immediate cessation of hostilities; (2) call upon the Government of India to withdraw its forces immediately to positions prevailing before 17 December 1961; (3) urge the parties to work out a permanent solution of their differences by peaceful means in accordance with the principles embodied in the Charter; and (4) request the Secretary-General to provide such assistance as might be appropriate.

At the same meeting, the representative of Ceylon introduced a joint draft resolution^{462/} co-sponsored by Liberia and the United Arab Republic, according to which the Security Council would: (1) decide to reject the Portuguese complaint of aggression against India; and (2) call upon Portugal to terminate hostile actions and to co-operate with India in the liquidation of her possessions in India.

At the same meeting, the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was rejected; there were 4 votes in favour and 7 against.^{463/}

The joint draft resolution submitted by France, Turkey, the United Kingdom and the United States failed of adoption. There were 7 votes in favour and 4 against (one of the negative votes being that of a permanent member).^{464/}

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

THE INDIA-PAKISTAN QUESTION

Decision of 1 February 1962 (990th meeting): Statement by the President

By letter^{465/} dated 11 January 1962, the representative of Pakistan requested a meeting of the Security

^{460/} 987th meeting: paras. 41-43, 45, 60-62.

^{461/} S/5033, 988th meeting: para. 47. For constitutional considerations advanced in connexion with this draft resolution, see chapter X, Case 5, and chapter XII, Case 8.

^{462/} S/5032, 988th meeting: para. 48. For constitutional considerations advanced in connexion with this draft resolution, see chapter XII, Case 8.

^{463/} 988th meeting: para. 128.

^{464/} 988th meeting: para. 129.

^{465/} S/5055, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 46-47.

Council to consider what further action to take in the dispute concerning the State of Jammu and Kashmir in the light of the last report of the United Nations representative for India and Pakistan on 28 March 1958, and subsequent developments. The Government of Pakistan was constrained to make that request as the efforts at the highest level for direct negotiations with the Government of India had failed to open a way towards the settlement of the dispute. Recent pronouncements by responsible personalities in India indicated that the situation constituted a grave threat to the maintenance of peace in the region.

By letter ^{466/} dated 16 January 1962, the representative of India stated that the Security Council should refuse to entertain the request of Pakistan for a meeting. Pakistan's allegations that efforts for direct negotiations had failed, and that a threat to the peace had arisen, were unfounded. As far as the Government of India was concerned, the avenues for direct negotiations were always open. It was Pakistan which threatened the maintenance of peace in the region by its aggressive efforts and instigation of attempts at subversion and sabotage. The eve of the general elections in India was hardly the proper time either for direct negotiations between the two Governments or for discussion of the situation in the Security Council.

By letter ^{467/} dated 29 January 1962, the representative of Pakistan stated that a very grave situation prevailed between India and Pakistan which called for immediate consideration by the Security Council. During recent weeks, responsible leaders of opinion in India had expressed themselves in a manner which had forced Pakistan to the conclusion that there had been a significant reversal of policy on the part of India with reference to the question of Kashmir and the relations between the two countries. India seemed to have decided to repudiate all its obligations, agreements and undertakings in respect of the resolving of the Kashmir dispute. This, in itself, was a development which would affect most seriously the relations between the two Governments. The situation was further exacerbated by the repeated declarations of Indian leaders to the effect that the continued existence of Azad Kashmir constituted "aggression" by Pakistan against India, and that it should be terminated by the "liberation" of the Azad Kashmir territory. It was clear that India's stand on any possible negotiations was limited by the repeated declaration of the Prime Minister of India that he was not willing to negotiate a settlement of the Kashmir dispute itself, but to discuss "adjustments", meaning thereby minor rectifications of the cease-fire line. Therefore, the situation with regard to the maintenance of peace between the two countries was daily becoming more precarious, and Pakistan consequently requested that the Council should take up the consideration of the India-Pakistan question as an urgent matter.

At the 990th meeting on 1 February 1962, the Security Council agreed ^{468/} to include the item in its agenda. The representatives of Pakistan and India

were invited to participate in the discussion. ^{469/} The Council considered the question at the 990th meeting on 1 February 1962, and at the 1007th to 1016th meetings held between 27 April and 22 June 1962.

At the 990th meeting, the representative of Pakistan* reviewed the history of the dispute over the accession of the State of Jammu and Kashmir to Pakistan or to India, and indicated that no progress had been reached towards a peaceful solution of the question, which could only be attained on the basis of the freely expressed wishes of the people of that State. During the past few months, tension between India and Pakistan had mounted to a dangerous degree and declarations by responsible leaders in India had created a sense of crisis in Pakistan, a sense of foreboding that perhaps it might be difficult to maintain peace between the two countries. After quoting from Indian statements to the effect that Pakistan had committed aggression against India and that if that aggression could not be vacated by peaceful means the Azad Kashmir area would have to be "liberated", just as Goa had been liberated, he referred to a statement attributed to the Indian Defence Minister ruling out a plebiscite as a solution for the Kashmir question, and declaring that India would not negotiate on the surrender of its sovereignty. The representative of Pakistan emphasized that there was a serious dispute over the question of the accession to India of the State of Jammu and Kashmir, and that the fundamental problem involved therein was the self-determination of the people of that State and their right to decide their own future freely without interference from one side or the other. Even assuming Pakistan to be in illegal possession of parts of Kashmir, the people of Kashmir would continue to have the right of self-determination. It was sometimes said that because the situation had been more or less stabilized during fifteen years, it should not be disturbed and discussion should only centre on some "adjustments". He wished to assure the Council that even if 150 years were to pass, the dispute would not be settled except through the freely expressed wishes of the people of Kashmir. The Security Council should, therefore, in accordance with its responsibility, take steps to ensure that no recourse should be had to threat or the use of force for the purpose of a settlement of the dispute. Should there be an attempt at a "vacation of aggression or liberation of the Azad Kashmir area" the conflict that then might ensue would be bound to spread, and in view of the geographical situation of Kashmir, if a conflagration started in that area it would not be confined to the sub-continent or even to the whole continent of Asia. ^{470/}

The representative of India* stated that no new facts had emerged in relation to Kashmir since the last meeting of the Security Council in 1957 to merit a reconsideration of the question. It was highly inconvenient for the Government of India to take substantive part in the Council's discussion of the Kashmir problem at a time when India was on the eve of general elections. The Council's consideration of this matter should, therefore, be deferred until a convenient time in the future after the Indian general

^{466/} S/5060 and Corr.1, *ibid.*, pp. 48-49.

^{467/} S/5068, *ibid.*, pp. 57-61.

^{468/} 990th meeting: para. 8.

^{469/} 990th meeting: paras. 9-10.

^{470/} 990th meeting: paras. 13-26, 50-55, 69-87.

elections and the formation of the new Government. He further stated that there was no threat or use of force against Pakistan from India. On numerous occasions the Government of India had offered to enter into a no-war declaration with Pakistan. Thus an atmosphere free from any apprehension would be created in order to facilitate the holding of any negotiations or discussions between India and Pakistan for the settlement of the issue. India's basic policy was to seek all avenues of peaceful settlement in the vacating of the aggression.^{471/} There had been an aggression against India in Kashmir, since Kashmir was an integral part of India. However, this aggression was to be vacated by peaceful means. The Prime Minister of India had repeatedly stated that India was not going to take any military measures in the Kashmir area under Pakistan occupation. There was no desire in the Government of India to settle the differences with Pakistan by any but peaceful means and by negotiations.^{472/}

The President (United States) stated that from the statements made before the Council by the representatives of Pakistan and India it was apparent that they desired to deal with their differences on the Kashmir issue in a peaceful manner. In the light of those assurances, and of the comments made before the Council, any further consideration by the Council should be deferred, possibly until some time after 1 March, on the understanding that it would be resumed after consultation between members of the Council and the parties concerned. Meanwhile, he concluded, the parties should refrain from any use or threat of the use of force in connexion with this problem, and from any action which might increase existing tensions.^{473/}

Decision of 22 June 1962 (1016th meeting): Rejection of the draft resolution submitted by Ireland

The Security Council resumed its consideration of the question at its 1007th meeting on 21 April 1962. The opening statement by the representative of Pakistan was made at the 1007th and 1008th meetings, and the opening statement by the representative of India at the 1009th meeting. Discussion continued through the 1016th meeting.

At the 1016th meeting on 22 June 1962, the representative of Ireland introduced a draft resolution^{474/} under which, after noting with satisfaction the pledges made by the two parties to the effect that their Governments would not resort to force in settling this question, the Security Council would: (1) remind both parties of the principles contained in its resolution of 17 January 1948, and in the United Nations Commission for India and Pakistan (UNCIP) resolutions of 13 August 1948 and 5 January 1949; (2) urge the parties concerned to enter into negotiations at the earliest convenient time with a view to the ultimate settlement of the India-Pakistan question, in accordance with Article 33 and other relevant provisions of the Charter; (3) appeal to the two Governments to

take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of negotiations; (4) urge the two Governments to refrain from making any statements, or taking any action, which might aggravate the situation; and (5) request the Secretary-General to provide the two Governments with such services as they might request for the purpose of carrying out the terms of this resolution.

At the same meeting, the Irish draft resolution failed of adoption. There were 7 votes in favour and 2 against, with 2 abstentions (one of the negative votes being that of a permanent member).^{475/}

LETTER OF 8 MARCH 1962 FROM THE REPRESENTATIVE OF CUBA CONCERNING THE PUNTA DEL ESTE DECISIONS

INITIAL PROCEEDINGS

By letter^{476/} dated 8 March 1962 addressed to the President of the Security Council, the representative of Cuba complained that certain resolutions adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, held at Punta del Este, violated the Charter of the United Nations, and that subsequently "unlawful enforcement action" had been taken against Cuba without the requisite authorization of the Security Council under Article 53 of the Charter. These coercive measures constituted aggression against the sovereignty of Cuba and were a serious threat to international peace and security. Accordingly, the Cuban Government asked for an immediate meeting of the Security Council to request the International Court of Justice to give an advisory opinion on several specific legal questions related to the decisions taken by the Eighth Meeting of Consultation of Ministers of Foreign Affairs. It further requested the Council to call, as a provisional measure under Article 40 of the Charter, for the suspension by the Council of the Organization of American States of the agreements adopted at Punta del Este. The Cuban request was based on Article 65 of the Statute of the International Court of Justice and Articles 24 (1), 34, 35 (1), 40, 41, 52, 53, 96 and 103 of the Charter, and the relevant provisions of the rules of procedure of the Council.

At the 992nd meeting on 14 March 1962, the Council included the question in its agenda.^{477/} It considered the Cuban complaint at the 992nd to 998th meetings held between 14 and 23 March 1962. The President (Venezuela) invited the representative of Cuba to participate in the discussion.^{478/}

Decision of 23 March 1962 (998th meeting): Rejection of the Cuban draft resolution

At the 992nd meeting on 14 March 1962, the representative of Cuba* contended that the Eighth Meeting of Consultation of Punta del Este had been illegally convened, and that it had adopted collective enforcement measures which could not be implemented with-

^{471/} See chapter X, Case 6.

^{472/} 990th meeting: paras. 83-87, 93-98, 102-111.

^{473/} 990th meeting: paras. 113-115.

^{474/} S/5134, O.R., 17th year, Suppl. for April-June 1962, p. 104; 1016th meeting: paras. 3-10.

^{475/} 1016th meeting: para. 42.

^{476/} S/5086, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 88-90.

^{477/} 992nd meeting: para. 3.

^{478/} 992nd meeting: para. 4.