

ation was that the dispute had its roots predominantly in foreign interference against the Government of Chile during the past three years or more. It had been precisely in the larger context of peace and security in Latin America that the Council, meeting in Panama, had adopted resolution 330 (1973).<sup>839</sup>

The representative of Madagascar\* said that the incidents about which Cuba complained represented very serious breaches of the standards of conduct imposed by international law. The Council should not merely confine itself to noting a situation that threatened international peace and security, for its duty was to prevent any development which might jeopardize peace and normal friendly relations between nations.<sup>840</sup>

A number of representatives stated that they followed the recent events in Chile with concern, but that they rigorously adhered to the principle of non-intervention in domestic affairs. They noted the contradictory statements by the representatives of Cuba and Chile and added that they could not pass judgement as long as the facts were not clearly established.<sup>841</sup>

At the end of the 1742nd meeting, the President stated that it would be premature to fix a time for another meeting on the issue since he had no indication when members of the Council might wish to speak or present proposals on the item.<sup>842</sup>

## COMPLAINT BY IRAQ

### INITIAL PROCEEDINGS

By a letter<sup>843</sup> dated 12 February 1974, the representative of Iraq requested the President of the Security Council to convene an urgent meeting of the Council to consider the "continuing acts of aggression launched by Iranian armed forces against the territorial integrity of Iraq."

At the 1762nd meeting on 15 February 1974, the Council included<sup>844</sup> the question in its agenda. The representatives of Iran, Democratic Yemen,<sup>845</sup> the Libyan Arab Republic and the United Arab Emirates<sup>846</sup> were invited to participate in the discussion. The Council considered the question at its 1762nd to 1764th and 1770th meetings, held between 15 February and 28 May 1974.

### Decision of 28 February 1974 (1764th meeting):

#### *Statement by the President of the Council*

During the discussion the representative of Iraq charged that Iran, on several occasions, had committed acts of

aggression against his country. After describing the attacks and violations of Iraqi territory that had taken place on the borders of the two countries on 10 and 24 December 1973 and on 4 and 10 February 1974 leaving a death toll of 44 known,<sup>847</sup> he stated that Iran's aggressive policy towards his country stemmed from Iran's refusal to abide by its obligations under the mutually binding Iraqi-Iranian Boundary Treaty of 1937. Iran's violations of its treaty obligations had culminated in its declaration, made in April 1969, to the effect that it was unilaterally abrogating it. In that connexion, he recalled that in a letter dated 11 July 1969, his Government had given a detailed account to the Council of the Iranian illegal action and of the historical background of the Shat Al-Arab dispute.<sup>848</sup> Moreover, his Government had drawn also the attention of the Secretary-General to the seriousness of the situation on the Iraqi-Iranian border and had expressed its readiness to accept a special mission of the Secretary-General to investigate that situation. It had also offered to submit the alleged Iranian complaints regarding the implementation of the 1937 Boundary Treaty to the International Court of Justice. Iran, in both cases had turned down Iraq's offer. The problem had proved itself to be insoluble so far, due to Iran's refusal to renounce its territorial claims against Iraq. The Security Council was duty-bound to expend its efforts to see that justice was done and peace and stability restored to the region. His Government wanted to preserve Iraqi-Iranian relations, on the basis of justice and respect for Iraqi sovereignty and would welcome direct negotiations in connexion with the Iraqi-Iranian border disputes, only after Iran had declared before the Council, its willingness to abide by the 1937 Boundary Treaty.<sup>849</sup>

The representative of Iran\* denied Iraq's allegations of Iranian aggression and stated that on the contrary, it was his country who was the victim of Iraq's acts of aggression. In a letter addressed to the Embassy of Iraq in Teheran, and circulated as a Security Council document,<sup>850</sup> the Government of Iran had described those acts of aggression and had drawn the attention of the Iraqi Government to the very dangerous consequences of such violations. He added that Iraq had also conducted mass deportations of Iranian nationals and made efforts to incite the people in Iran to revolt.

The representative of Iran then said that his country did not consider the 1937 Boundary Treaty to be valid and had repeatedly offered to enter immediately into negotiations with the Government of Iraq on the basis of the accepted principles of international law and justice and taking into account the interests of the two parties, with a view to the complete normalization of the situation. However, the delegation of Iraq had refused to have recourse to these normal means. After stating further that there did not exist any treaty delimiting the land frontier between Iran and Iraq, he stated that his Government would not be opposed if the Council sent a representative on a fact-finding mission

<sup>839</sup> 1742rd meeting, intervention by President as representative of Yugoslavia.

<sup>840</sup> *Ibid.*, intervention by Madagascar.

<sup>841</sup> 1741st meeting: Peru; 1742nd meeting: Indonesia, Australia, Kenya, Austria.

<sup>842</sup> 1742nd meeting, President's closing statement.

<sup>843</sup> S/11216, *OR*, 29th yr., *Suppl. for Jan.-March 1974*, p. 96.

<sup>844</sup> 1762nd meeting, President's opening statement.

<sup>845</sup> *Ibid.*

<sup>846</sup> 1763rd meeting, President's opening statement.

<sup>847</sup> Those actions were described by Iraq in document S/11216, *OR*, 29th yr., *Suppl. for Jan.-March 1974*, p. 96.

<sup>848</sup> S/9323, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, pp. 108-123.

<sup>849</sup> 1762nd and 1763rd meetings: several interventions by Iraq.

<sup>850</sup> S/10627, *OR*, 27th yr., *Suppl. for April-June 1972*, pp. 41-42.

to the battlefield of 10 February 1974, who would then report back to the Council.<sup>851</sup>

At the 1764th meeting, on 28 February 1974, the President (France) read out the following statement as representing the consensus of the views of the members of the Council,<sup>852</sup> which was adopted without any objection.<sup>853</sup>

1. Following the complaint presented on 12 February 1974 by the representative of Iraq, the Security Council met on 15 and 20 February. The President of the Security Council has had consultations with all the members of the Council and with the Permanent Representative of Iran. As a result, the President has found that there exists within the Council a consensus in the following terms.

2. The Security Council, having heard the statements of the representatives of Iraq and Iran regarding the events referred to in the complaint by Iraq, believes that it is important to deal with a situation which could endanger peace and stability in the region. It deplors all the loss of human life; it appeals to the parties to refrain from all military action and from any move which might aggravate the situation. The Council reaffirms the fundamental principles set out in the Charter regarding respect for the territorial sovereignty of States and the pacific settlement of disputes and the duty of all States to fulfil their obligations under international law, as well as the principles referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

3. From the information available to the Council, it appears that the cause of the events lies, *inter alia*, in the fact that the legal basis for the delimitation of the boundary between the parties is contested.

4. The Council had noted the recent exchange of ambassadors between the two States and hopes that this could constitute a channel through which problems affecting relations between the parties might be resolved.

5. As additional information is required, the Security Council requests the Secretary-General

to appoint as soon as possible a special representative to conduct an investigation of the events that have given rise to the complaint by Iraq and

to report within three months.

6. The above-mentioned consensus was reached by members of the Council with the exception of China, which dissociates itself from it; the Chinese delegation made the following statement:

"The Chinese delegation hopes that Iran and Iraq will arrive at a fair and reasonable settlement of their boundary dispute through negotiations in accordance with the five principles of peaceful co-existence. Therefore, the Chinese delegation does not favour United Nations involvement in any form in a boundary dispute. In view of this position, the Chinese delegation dissociates itself from the above consensus of the Security Council."<sup>854</sup>

At the same meeting, the representative of China said his Government as stated in paragraph 6 had dissociated from the consensus because it had always stood for the settlement of questions such as the one being considered by the Council through friendly consultations between the parties, without United Nations involvement.<sup>855</sup>

The representative of Peru stated that it was the understanding of his delegation that the mandate of the special representative to be appointed by the Secretary-General was wholly contained and defined exclusively in paragraph 5 of the consensus, that is, he was "to conduct

<sup>851</sup> 1762nd meeting, Iran, first intervention.

<sup>852</sup> 1764th meeting, President's statement of consensus.

<sup>853</sup> *Ibid.*, following the President's statement.

<sup>854</sup> *Resolutions and Decisions of the Security Council 1974*, p. 1.

<sup>855</sup> 1764th meeting, intervention by China.

an investigation of the events that have given rise to the complaint by Iraq."<sup>856</sup>

Decision of 28 May (1770th meeting): resolution 348 (1974)

On 20 May 1974 the Secretary-General submitted to the Security Council his report<sup>857</sup> on the implementation of the consensus adopted by the Security Council on 28 February 1974 regarding the complaint by Iraq concerning incidents on its frontier with Iran. In his report, the Secretary-General stated that his Special Representative, Ambassador Luis Weckmann-Muñoz, had informed him that the Governments of Iran and Iraq had agreed through the Special Representative, who was acting in the exercise of the Secretary-General's good offices,<sup>858</sup> to the following points: (a) a strict observance of the 7 March 1974 ceasefire agreement; (b) prompt and simultaneous withdrawal of armed forces along the entire border; (c) the creation of a favourable atmosphere conducive to achieving the purpose stated in the following paragraph, by refraining totally from any hostile actions against each other; and (d) an early resumption, without any preconditions, at the appropriate level and place, of conversations with a view to a comprehensive settlement of all bilateral issues.

At the 1770th meeting on 28 May 1974, the Security Council resumed its consideration of the item<sup>859</sup> and included in its agenda the report by the Secretary-General (S/11291).<sup>860</sup> The Council invited the representative of Iran to participate in the discussion.<sup>861</sup>

At the same meeting, the President (Kenya) after recapitulating briefly the previous action taken by the Council on the matter, stated that consultations held between the parties concerned and then among the members of the Council had resulted in agreement on the text of a draft resolution.<sup>862</sup>

The representative of the USSR stated that regarding paragraph 4 of the draft resolution, his delegation would have preferred it to indicate that in discharging his mandate from the Security Council, the Secretary-General would act in accordance with and with the approval of the Security Council, in matters concerning the nature and scope of assistance to the parties in the settlement of disputes. However, taking into account the explanations of the parties, and the consultations held among members of the Council, the USSR delegation would not insist on the inclusion in the draft resolution of a special provision on the understanding that if the parties should request assistance of the Secretary-General he would agree with the Security Council on the nature and extent of such assistance.<sup>863</sup>

<sup>856</sup> *Ibid.*, intervention by Peru.

<sup>857</sup> S/11291, *OR*, 29th yr., *Suppl. for April-June 1974*, pp. 125-129.

<sup>858</sup> In connexion with the exercise of the good offices of the Secretary-General see in chapter I, part IV, Case 9.

<sup>859</sup> 1770th meeting, President's opening statement.

<sup>860</sup> *Ibid.*

<sup>861</sup> *Ibid.*

<sup>862</sup> *Ibid.*, The President (Kenya) referred to the draft resolution contained in document S/11299, adopted without change as resolution 348 (1974).

<sup>863</sup> *Ibid.*, intervention by the USSR.

At the same meeting, the draft resolution was voted upon and adopted by 14 votes in favour, none against and no abstentions.<sup>864</sup> One member (China) did not participate in the vote.<sup>865</sup> The draft resolution read as follows:<sup>866</sup>

*The Security Council,*

*Recalling* its consensus adopted on 28 February 1974 (S/11229),

1. *Takes notes with appreciation* of the Secretary-General's report, which was circulated to the Security Council on 20 May 1974 (S/11291);

2. *Welcomes* the reported determination on the part of Iran and Iraq to de-escalate the prevailing situation and to improve their relations and, in particular, the fact that both countries have agreed through the Secretary-General's Special Representative, acting in the exercise of the Secretary-General's good offices, to the following points:

(a) A strict observance of the 7 March 1974 cease-fire agreement;

(b) Prompt and simultaneous withdrawal of concentrations of armed forces along the entire border, in accordance with an arrangement to be agreed upon between the appropriate authorities of the two countries;

(c) The creation of a favourable atmosphere conducive to achieving the purpose stated in the following subparagraph, by refraining totally from any hostile actions against each other;

(d) An early resumption, without any preconditions, at the appropriate level and place, of conversations with a view to a comprehensive settlement of all bilateral issues;

3. *Expresses the hope* that the parties will take as soon as possible the necessary steps to implement the agreement reached;

4. *Invites* the Secretary-General to lend whatever assistance may be requested by both countries in connexion with the said agreement.

After the vote, the representative of the United Kingdom stated that it was not appropriate to discuss the precise relationship between the Secretary-General and the Security Council on a resolution dealing with an agreement entered into bilaterally between the parties to a dispute, particularly when no amendment to that effect had been moved to paragraph 4 of the draft resolution. Nothing in that resolution, and nothing that had taken place in the Security Council that day had in anyway altered the relationship that existed between the Secretary-General and the Security Council.<sup>867</sup>

## RELATIONSHIP BETWEEN THE UNITED NATIONS AND SOUTH AFRICA

### INITIAL PROCEEDINGS

By a letter dated 9 October 1974<sup>868</sup> addressed to the President of the Security Council, the representative of Tunisia, in his capacity as the Chairman of the African Group at the United Nations, requested a meeting of the Security Council to review the relationship between the United Nations and South Africa in conformity with General Assembly resolution 3207 (XXIX) adopted on

<sup>864</sup> 1770th meeting, following the intervention by China.

<sup>865</sup> For the applicability of article 27, paragraph 3, see in chapter IV, part III.

<sup>866</sup> Resolution 348 (1974).

<sup>867</sup> 1770th meeting, intervention by the United Kingdom.

<sup>868</sup> S/11532, *OR, 29th year, Supplement for October-December 1974*, p. 25.

30 September 1974. Under that resolution the General Assembly had called on the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter of the United Nations and the Universal Declaration of Human Rights.

The Council held 11 meetings between 18 and 30 October 1974 to consider the item. In the course of the discussion, the President (United Republic of Cameroon), with the consent of the Council, and at their request, invited the representatives of Algeria, Bangladesh, Barbados, Congo, Cuba, Czechoslovakia, Dahomey, Egypt, the German Democratic Republic, Ghana, Guinea, Guyana, India, Kuwait, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritius, Morocco, Nigeria, Pakistan, Qatar, Romania, Saudi Arabia, Sierra Leone, Somalia, South Africa, the Syrian Arab Republic, Tunisia, Uganda, the United Arab Emirates, the United Republic of Tanzania, Upper Volta, Yugoslavia and Zaire to participate in the debate without the right to vote.

The Council also decided to extend invitations under rule 39 of its provisional rules of procedure to Mr. David Sibeko of the Pan Africanist Congress of Azania, Mr. Duma Nokwe, of the African National Congress, Noel Mukono of the Zimbabwe African National Union, T. George Silundika of the Zimbabwe African People's Union and Mr. Theo-Ben Gurirab of the South West Africa People's Organization.

At the 1796th meeting on 18 October 1974, following the adoption of the agenda<sup>869</sup> the Council began its discussion of the question with statements by the representatives of Tunisia, Somalia and Sierra Leone.

The representative of Tunisia\*, representing the African group, stated that the political and social system practised in South Africa was in total violation of, and in flagrant contradiction with, the principles and purposes of the Charter of the United Nations and the Universal Declaration of Human Rights. Furthermore, South Africa, in violation of Article 2 of the Charter, had continued illegally to occupy the Territory of Namibia, despite the fact that in 1966 the General Assembly had terminated its Mandate, and it had sent troops to Southern Rhodesia and maintained them there, defying both the administering Power and the United Nations. Moreover, in violation of Articles 5 and 25 of the Charter, it had refused to apply the Security Council decisions that imposed sanctions on Rhodesia under Chapter VII of the Charter and had continued to maintain political, economic, military and other relations with the minority régime in Rhodesia. The representative of Tunisia then said that in view of South Africa's attitude during the past twenty-nine years of its membership in the United Nations, his delegation would urge the Council to invoke Article 6 of the Charter and expel South Africa from the Organization.<sup>870</sup>

The representative of Somalia\*, speaking as current Chairman of the Council of Ministers of the Organization of African Unity had also called for the invocation of Article 6 of the Charter. He stressed that in its consideration of the relationship between the United Nations and South Africa, the Council must also take into account its own conclusion

<sup>869</sup> 1796th meeting, President's opening statement.

<sup>870</sup> *Ibid.*, intervention by Tunisia.