

with regard to the dangerous situation that unfortunately still exists. As President, I shall be prepared to convene the Council whenever circumstances make it necessary to do so."^{414/}

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

COMPLAINT BY TUNISIA

INITIAL PROCEEDINGS

By telegram^{415/} dated 20 July 1961 addressed to the President of the Security Council, the Secretary of State for Foreign Affairs of Tunisia informed the President that the town and gouvernorat of Bizerta had been under attack by French naval and air forces since the afternoon of 19 July, and requested a meeting of the Security Council as a matter of extreme urgency for the purpose of considering a complaint against France "for acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security". By letter^{416/} of the same date addressed to the President of the Council, the representative of Tunisia reiterated the request and submitted an explanatory memorandum which stated that, in addition to the air and naval attacks of 19 July, 800 French paratroopers had been dropped over Bizerta, thus violating Tunisia's airspace, despite the categorical prohibition of the Tunisian Government. During the night of 19/20 July, French armoured units had also taken up positions outside the Bizerta base. These acts represented a flagrant violation of the airspace and the territorial integrity of Tunisia and also constituted a clear and premeditated act of aggression, gravely threatening international peace and security. After recalling the repeated efforts made by Tunisia to obtain the evacuation of French troops from the Bizerta base and a portion of the south-east territory of Tunisia, which was also occupied by French forces, the memorandum stated that on 6 July a final approach had been made in the form of a personal message from President Bourguiba to General de Gaulle. No reply had been given to that last attempt to obtain a peaceful settlement. Following this demonstration of France's intention to flout Tunisia's national dignity, the Tunisian Government was forced to take steps similar to those taken after the act of aggression at Sakiet-Sidi-Youssef and was compelled to exercise its right of self-defence^{417/} in accordance with Article 51 of the Charter.

^{414/} 960th meeting: paras. 82-83.

^{415/} S/4861, O.R., 16th year, Suppl. for July-Sept. 1961, p. 6.

^{416/} S/4862, *ibid.*, pp. 7-9.

^{417/} In a letter dated 20 July 1961 (S/4864, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 11-14) the representative of France requested the circulation of the text of two notes dated 18 and 20 July 1961 respectively which had been delivered to the office of the Secretary of State for Foreign Affairs of Tunisia. In the first note, the French Government noted that the measures announced by the President of the Republic of Tunisia were designed, not to restore normal conditions, but on the contrary to increase tension. Action of this nature would, moreover, serve only to delay conversations concerning the Bizerta base, which were provided for in the exchange of letters of 17 June 1958 and which the French Government still wished to see opened. In the face of the increasingly serious threats, the French Government was compelled to take all necessary steps to ensure the inviolability of the base installations and freedom of communication between them. In the note of 20 July, the French Government warned the Tunisian Government against the attempt it had announced to cripple the Bizerta base by

At its 961st meeting on 21 July 1961, the Security Council included the item on its agenda.^{418/} The Council considered the question at its 961st to 966th meetings held between 21 and 29 July 1961. After the adoption of the agenda, the President (Ecuador) invited the representative of Tunisia to the Council table.^{419/}

Decision of 22 July 1961 (962nd meeting): Calling for an immediate cease-fire and a return of all armed forces to their original position and deciding to continue the debate

Opening the debate, the representative of Tunisia* stated that since 19 July 1961 France had been committing armed, premeditated and continuous aggression against Tunisia, which had, with great patience and understanding, made every effort using diplomatic means to secure the evacuation of foreign forces from its territory. Those efforts had been fruitless; even President Bourguiba's personal appeal on 6 July to General de Gaulle had gone unanswered, on the pretext that popular demonstrations made negotiations impossible. Tunisia was fighting because it was the victim of aggression by forces far stronger than its own, and was using its right of self-defence under Article 51 of the Charter in order to regain its legitimate sovereignty over all its territory. In that situation, he called on the Council to bring an immediate end to the aggression; to assist Tunisia to repel the aggression, if necessary; and to assist Tunisia in removing from its territory the permanent danger of aggression constituted by the presence of French troops on Tunisian territory against its will.^{420/}

The representative of France stated that his Government would have had every justification if it had complained to the Council of the premeditated and systematic aggression committed by the Tunisian Government in Bizerta against the French Government. The legal basis for the French military presence in Bizerta was to be found in the exchange of letters of June 1958 between the French and Tunisian Governments, which provided for the maintenance of the base at Bizerta pending negotiation of a final agreement on the evacuation of the French forces stationed throughout Tunisia. The evacuation of all forces outside Bizerta had been completed in October 1958. The French Government had taken the initiative in proposing to the Government of Tunisia that talks be held in connexion with the base. That invitation had been renewed repeatedly, and negotiations had taken place on many occasions. However, they had never been fruitful. The French Government was, therefore, not opposed to negotiations, but the military and aggressive actions of the Tunisian authorities made it impossible. The French Government had solemnly warned the Tunisian Government against action which it had deliberately undertaken and for which it bore full and sole responsibility.^{421/}

means of popular demonstrations and force. It further stated that on 19 July and during the night of 19/20 July the Tunisian authorities had taken the initiative in committing deliberate acts of aggression against the French installations and forces. The latter, after waiting for a long time, had been compelled to retaliate in self-defence.

^{418/} 961st meeting: para. 2.

^{419/} 961st meeting: para. 3.

^{420/} 961st meeting: paras. 5-62.

^{421/} 961st meeting: paras. 63-67.

At the 962nd meeting on 22 July 1961, the Secretary-General stated that, in view of his obligations under Article 99 of the Charter, he considered it his duty to make an urgent appeal to the Council to consider, without delay, the taking of an interim decision pending the further consideration of the item and conclusion of the debate. Such a decision should not prejudice the final outcome of the deliberations of the Council as it would, in his view, only request of the two States concerned an immediate cessation, through a cease-fire, of all hostile actions. Naturally, this request should be combined with a demand for an immediate return to the *status quo ante*, as otherwise the cease-fire would be likely to prove too unstable to satisfy the urgent needs of the moment.^{422/}

After the resumption of the meeting which, on the proposal of the representative of the United States, had been suspended for an hour, the representative of Liberia introduced a draft resolution^{423/} along the lines suggested by the Secretary-General, and requested that it receive priority. At the same meeting the Council adopted the Liberian draft resolution by 10 votes in favour, none against and no abstentions.^{424/} France did not participate in the voting.

The resolution^{425/} read:

"The Security Council,

"Considering the gravity of the situation prevailing in Tunisia,

"Pending the conclusion of the debate of the item on its agenda,

"1. Calls for an immediate cease-fire and a return of all armed forces to their original position;

"2. Decides to continue the debate."

Decisions of 22 July 1961 (963rd meeting): Rejection of a draft resolution jointly submitted by the United Kingdom and the United States, and of a draft resolution jointly submitted by Liberia and the United Arab Republic

At the 963rd meeting on 22 July 1961, the representative of the United Kingdom introduced a draft resolution^{426/} jointly sponsored with the United States, under which the Council would call upon the parties to effect an immediate cease-fire and a speedy return of all forces to their previous positions; call upon all concerned to refrain from any action which might lead to a further deterioration of the situation; urge the parties, in accordance with the Charter, to negotiate a peaceful settlement of their differences; and decide to keep the situation under urgent review in the interests of peace and security.

Also at the 963rd meeting, the representative of Liberia introduced a draft resolution^{427/} jointly sponsored with the United Arab Republic, which would have the Council call for an immediate cease-fire;

for the immediate withdrawal of those French forces which had been introduced into the Bizerta base, and for the return to their original position of those which had transgressed beyond the limits of that base since 19 July 1961; and, further, call upon both parties to enter into immediate negotiations aimed at the speedy evacuation of the French forces from Tunisia.

At the same meeting, the Council proceeded to vote upon the draft resolutions before it. The draft resolution sponsored by Liberia and the United Arab Republic was not adopted, the result of the vote being 4 in favour, none against and 7 abstentions.^{428/} The draft resolution sponsored by the United Kingdom and the United States was not adopted, the result of the vote being 6 in favour, none against, and 5 abstentions.^{429/}

The President (Ecuador) noted that, although neither of the draft resolutions before the Council had been adopted, the item was still on the agenda as had been made clear in the interim resolution adopted at the previous meeting. He would call a meeting of the Council at the request of any member of the Council or State Member of the United Nations whenever they might deem it necessary.

Decisions of 29 July 1961 (966th meeting): Rejection of two draft resolutions jointly submitted by Ceylon, Liberia and the United Arab Republic, and of a draft resolution submitted by Turkey

By letter^{430/} dated 27 July 1961 addressed to the President of the Council, the representative of Tunisia stated that France continued to refuse to carry out the provisional measures called for in the Council's interim resolution of 22 July. He accordingly requested that the Council be convened to resume consideration of the "complaint by Tunisia against France concerning acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security" submitted by his Government to the Security Council on 20 July 1961.

The Security Council resumed consideration of the question at its 964th to 966th meetings held on 28 and 29 July 1961. The representatives of Libya, Senegal and Tunisia were,^{431/} at their request, invited to participate in the proceedings.

At the 964th meeting on 28 July, the President drew the Council's attention to a letter^{432/} dated 28 July 1961 from the representative of France informing the President that his delegation did not consider it necessary to participate in any discussions on the matter which might take place in the Council.

The representative of Tunisia* stated that his delegation's request that the Council be convened had been necessary by the grave situation resulting from the French military authority's non-observance of the interim decision taken by the Council on 22 July 1961. The Tunisian Government had accepted the

^{422/} 962nd meeting: paras. 2-3. See chapter I, Case 49.

^{423/} S/4880, 962nd meeting: para. 43.

^{424/} 962nd meeting: para. 58.

^{425/} S/4882, O.R., 16th year, Suppl. for July-Sept. 1961, p. 25.

^{426/} S/4879, *ibid.*, p. 23; 963rd meeting: para. 28.

^{427/} S/4878, *ibid.*, pp. 22-23; 963rd meeting: para. 34.

^{428/} 963rd meeting: para. 113.

^{429/} 963rd meeting: para. 114.

^{430/} S/4893, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 33-34.

^{431/} 964th meeting: paras. 4, 5.

^{432/} S/4897, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 40-41; 964th meeting: para. 3.

Council's interim decision and undertaken to implement it in good faith while the French authorities, in contrast, were ignoring it. The French order to cease fire had been given only because the objectives of the aggressor had been achieved and, furthermore, the application of the cease fire had been far from complete. Nor had the French military authorities given effect to the Council's call for the return of all armed forces to their original position. They had instead taken advantage of Tunisian respect for the cease-fire, increased their military potential and violated Tunisian airspace. The representative of Tunisia requested the Council to take into account, in compliance with Article 40 of the Charter, France's refusal to abide by its obligation under the Charter and to act vigorously to enforce the Council's decisions.^{433/}

At the request of the representative of Liberia, the Secretary-General made a statement, informing the Council that, at the invitation of President Bourguiba, he paid a short visit to Tunisia, in the course of which he had had personal contacts with the President and with members of the Tunisian Government. The scope and character of the visit had been clearly defined in the exchange of letters, issued as a Council document,^{434/} in which the aim of the visit was defined by President Bourguiba as a direct and personal exchange of views regarding the developments following the interim resolution of the Security Council of 22 July 1961. The Secretary-General had pointed out in his reply that the question of substance was considered by him as falling outside his personal competence in view of the fact that it was pending before the Council. The acceptance of the invitation extended to him by President Bourguiba fell within the framework of the rights and obligations of the Secretary-General. Article 99 of the Charter authorized him to draw to the Council's attention what, in his view, might represent a threat to international peace and security, and it was obvious that the duties flowing from that authority could not be fulfilled unless the Secretary-General, in case of need, was in a position to acquire a personal opinion about the relevant facts of the situation that might represent such a threat. Without in any way assuming the role of mediator but with a view to getting a better understanding of the difficulties with which efforts to establish a direct contact between the parties had met, he had taken the initiative of expressing to the French Government^{435/} his hope that it would inform him about its views regarding the questions on which he had been informed of the Tunisian viewpoint during his visit. The implementation of the Security Council resolution of 22 July remained so far incomplete. The cease-fire had been established, but that did not seem to have led to an immediate cessation of all acts which, under a cease-fire, should be ruled out. Nor did it mean that the integral demand by the Council for a return of the armed forces to the original position had been met. In view of the need for co-ordination of steps to be taken by the two sides, various efforts, so far unsuccessful, had been made to establish contact between the two parties prior to the full implementation of the

resolution. As stated to the parties, it seemed obvious to him from the resolution and from the general principles of the Charter that the objective of such a contact should be the co-ordination of steps needed for the implementation of the resolution, and that the choice of modalities should take into account the prevailing legal situation. By personal observation he could confirm the fact of the presence, at the time of his visit in the city of Bizerta, and at a fairly considerable distance from Bizerta on the main road to Tunis, of French military units, and that these troops had exercised functions for the maintenance of law and order which normally belonged to organs of the sovereign Government. Furthermore, testimony given in personal contacts appeared to confirm that actions difficult to reconcile with the principle of a cease-fire, involving French military personnel, had occurred. In conclusion, the Secretary-General stated that it was not for him to pass any judgement on the situation, either in terms of what it might involve by way of risks of a breakdown in the cease-fire in case of an incident, or in terms of the resolution, or in terms of international law.^{436/}

At the same meeting the representative of the United Arab Republic submitted a draft resolution^{437/} jointly sponsored with Ceylon and Liberia under which the Council would: (1) express its serious concern over the fact that France had not complied fully with the interim resolution of 22 July, and that the situation continued to represent a serious threat to international peace and security; (2) invite France to comply immediately with all the provisions of the interim resolution.

At the 965th meeting on 29 July 1961, the same three Powers submitted a second draft resolution,^{438/} under which the Council would invite France immediately to enter into negotiations with Tunisia, with a view to the speedy evacuation of French forces from Tunisia.

At the same meeting, the representative of Turkey expressed his belief that the Council's object should be to break the deadlock between the two parties and secure the implementation of the interim resolution of 22 July while at the same time opening the path for a final settlement of the question. His delegation therefore introduced a draft resolution^{439/} according to which the Council would: (1) express its concern that the resolution of 22 July had not been fully carried out; (2) call for immediate and full implementation of that resolution; and (3) urge the early opening of negotiations for a peaceful solution of differences, including a definitive settlement of the question of Bizerta, having due regard for Tunisian sovereignty.

At the 966th meeting on 29 July, the representative of Turkey stated that, having heard certain objections, and in particular the comments of the representative of Tunisia, with regard to paragraph 3 of his draft, he had decided to drop the final paragraph so that a vote might be taken only on operative paragraphs 1 and 2 of his draft resolution.^{440/}

^{433/} 964th meeting: paras. 7-50.

^{434/} S/4885, O.R., 16th year, Suppl. for July-Sept. 1961, p. 26.

^{435/} S/4894 and Add.1, *ibid.*, pp. 34-38.

^{436/} 964th meeting: paras. 85-94. See also chapter I, Case 50.

^{437/} S/4903, C.R., 16th year, Suppl. for July-Sept. 1961, p. 47; 964th meeting: para. 160.

^{438/} S/4904, *ibid.*, p. 47; 965th meeting: para. 14.

^{439/} S/4905, *ibid.*, p. 48; 965th meeting: para. 32.

^{440/} 966th meeting: para. 58.

At the same meeting, the representative of the USSR proposed that in operative paragraph 1 of the Turkish draft resolution, after the words "had not been fully carried out", be added the words "by France", and that, in operative paragraph 2, after the words "implementation of that resolution" be added the words "by France".^{441/}

At the 966th meeting, the Council proceeded to vote on the draft resolutions and the amendment before it. The first draft resolution (S/4903) submitted by Ceylon, Liberia and the United Arab Republic was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{442/} The second draft resolution submitted by Ceylon, Liberia and the United Arab Republic was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{443/} The USSR amendment to the Turkish draft resolution was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{444/} The draft resolution submitted by Turkey was not adopted, there being 6 votes in favour, none against and 4 abstentions.^{445/}

The President (Ecuador) noted that France had not participated in the voting.

The President expressed his concern at the fact that the Council had concluded its discussion without having arrived at a positive resolution. He expressed the hope that the good will of the countries concerned and their understanding of their duties would lead to the full implementation of the only resolution that the Council had been able to adopt on the matter.^{446/}

COMPLAINT BY CUBA (LETTER OF 21 NOVEMBER 1961)

INITIAL PROCEEDINGS

By letter ^{447/} dated 21 November 1961 addressed to the President of the Security Council, the representative of Cuba stated that the United States was carrying out a plan of armed intervention in the Dominican Republic in violation of that country's sovereignty. He asserted that United States warships and aircraft carriers had been dispatched to Santo Domingo waters, from which flights had been launched over Dominican territory with no justification expect force and intimidation. Such actions, he added, infringed on the basic principles of the United Nations Charter and those of the Charter of the Organization of American States and were consequently endangering international peace and security. Furthermore, if allowed to go unprotected, they could become a precedent for United States intervention in the internal affairs of other countries of Latin America and thus affect their struggle for self-determination. The request for a meeting of the Security Council was based on Ar-

^{441/} 960th meeting: paras. 59-60, 62.

^{442/} 966th meeting: para. 64. One permanent member did not participate in the voting.

^{443/} 966th meeting: para. 65. One permanent member did not participate in the voting.

^{444/} 966th meeting: para. 66. One permanent member did not participate in the voting.

^{445/} 966th meeting: para. 67. One permanent member did not participate in the voting.

^{446/} 960th meeting: para. 78.

^{447/} S/4992, O.R., 10th year, Suppl. for Oct.-Dec. 1961, pp. 139-141.

ticles 34, 35 (1), 52 (4), 103, 24 (1) and 31 of the Charter, and on the relevant rules of procedure of the Security Council.

At the 980th meeting on 22 November 1961, the Council included the question in its agenda.^{448/} The President (USSR) invited the representatives of Cuba and the Dominican Republic to participate in the debate.^{449/} The Council considered the Cuban complaint at its 980th, 981st and 983rd meetings held on 22, 24 and 28 November 1961.

Decision of 28 November 1961 (983rd meeting): Statement by the President summing up the consensus in the Council

At the 980th meeting on 22 November 1961, the representative of Cuba* asked the Council to condemn the United States as an aggressor, and to demand the immediate withdrawal of U.S. Forces from the coasts of the Dominican Republic.^{450/}

The representative of the United States observed that the charge that the United States was planning armed intervention in the Dominican Republic was totally without foundation, and at no time had the land, sea or air forces of the United States been present in the territorial waters or airspace of the Dominican Republic. The friendly presence of the U.S. fleet on the high seas of the Caribbean was undertaken with the full knowledge of the constitutional authorities of the Dominican Republic, who were struggling to free that nation from years of dictatorship. It was surprising, however, that the accusation of intervention was made not by the Dominican Republic but by Cuba. The real threat to the peace and security of the hemisphere, he asserted, rested with a Government aided by the Communist bloc, which was attempting to frustrate the efforts of the Dominican people to achieve a new and democratic life for their country.^{451/}

At the 981st meeting on 24 November 1961, the representative of the Dominican Republic* expressed regret that Cuba had misused the right granted to Members under Article 35 in a case that fulfilled none of the prerequisites mentioned in Article 34. The Dominican Republic had traditionally been very conscious about its sovereignty, and there was no United States interference in Dominican internal affairs. Instead, full United States respect for that country's sovereignty was manifest. Further, the United States had not violated international law since it had not intruded into the Dominican Republic's territorial waters. The United States patrolled the high seas which was within its rights. The Dominican representative suggested that since Cuba had raised the same complaint before the Organization of American States the Council might abstain from considering it. In so doing, the Council would be respecting Articles 52 to 54 of the United Nations Charter.^{452/}

The President, in summing up the debate at the 983rd meeting on 28 November 1961,^{453/} stated that

^{448/} 980th meeting: preceding para. 1.

^{449/} 980th meeting: paras. 1 and 50.

^{450/} 980th meeting: paras. 4-30.

^{451/} 980th meeting: paras. 31-45.

^{452/} 981st meeting: paras. 3-30, 34-51.

^{453/} 983rd meeting: para. 17^a.