

giving a detailed account of the legal situation and of the claims of Panama concerning the Canal Zone, he stated that the Zone should "not continue under its present status, which is and will remain a cause of permanent discord". In his view, it was imperative that the status of the Panama Canal be changed, either by nationalization or by internationalization. The Panamanian representative was requesting the intervention of the Security Council in the hope that peace and tranquillity would be restored in the Canal Zone, and that lasting solutions would be sought for Panama.

The representative of the United States stated that the riots and violence in Panama were of special regret to the United States Government and people since they blotted the record of the long and friendly and improving relationship between both countries. The United States Government was doing everything humanly possible to restore the situation. The United States President had telephoned the President of Panama to discuss the situation, and the two Presidents had agreed that violence in the Canal Zone had to be stopped. The United States President had also given instructions to United States authorities to do everything within their power to restore and maintain peace and order in the Canal Zone. It was to be hoped that the Panamanian authorities were being equally vigorous in their efforts to restrain lawlessness and to maintain order and prevent further incidents of violence and bloodshed.

The representative of the United States further denied the Panamanian representative's allegations of aggression and stated that when the Canal Zone police appeared unable to restore order, United States Army forces had been requested to assume responsibility for the protection of the Zone. They had acted with the greatest restraint. There was no evidence that either the police of the Zone or the United States Army ever went outside the Zone. Their only use of firearms had been within the Zone, to protect United States citizens residing there against an onrushing crowd of several thousand and against snipers. That act of self-defence within the Canal Zone boundaries he asserted, could not be called an act of aggression.

Furthermore, the Organization of American States had moved into action with great rapidity. The Inter-American Peace Commission had met at the request of Panama and the United States to consider the situation, and had agreed to go to Panama immediately to ascertain the facts. He suggested that the Council, bearing in mind the fact that the Inter-American Peace Commission was about to leave for Panama, should agree that "the problem should continue to be pursued in the regional forum which was established precisely to deal with situations arising among States in the Western Hemisphere". The United Nations Charter, both in Articles 33 and 52, provided for pacific settlement of local disputes through regional agencies. In accordance with the provisions of those articles, and without derogating from the responsibilities of the Security Council, he believed that such local disputes could most effectively be dealt with through regional procedures.

The representative of Brazil suggested that the President of the Council be authorized to address an appeal to both parties to bring to an immediate end the exchange of fire, and to request them to impose restraint over the military forces under their command and the civilian population under their control.

The Brazilian representative's initiative was supported by the representatives of the United Kingdom, Morocco, Ivory Coast, the United States and China. The representative of Panama also stated that his reaction to the suggestion was favourable.

At the end of the discussion the President (Bolivia) noted that many of the members of the Council had supported the proposal of the representative of Brazil to the effect that the President of the Council would be authorized to address an appeal¹³ to the Governments of the United States and of Panama so that they should immediately take the most appropriate measures to bring to an end the exchange of fire and the bloodshed. There being no objection he declared the proposal as adopted. The President also stated that the question would remain on the agenda of the Council.¹⁴

THE INDIA-PAKISTAN QUESTION

STATEMENT BY THE PRESIDENT (1117TH MEETING)

By letter¹⁵ dated 16 January 1964, the representative of Pakistan requested the President of the Council to convene an immediate meeting of the Council to consider "the grave situation that has arisen in the State of Jammu and Kashmir" which, he contended, was "the direct consequence of the unlawful steps that the Government of India is continuing to take in order to destroy the special status of the State" in disregard of the resolutions of the Security Council and of the United Nations Commission for India and Pakistan (UNCIP). References were made to two earlier letters from the President of Pakistan to the President of the Council, dated 9 October 1963¹⁶ and 3 January 1964¹⁷ drawing the attention of the Council to the measures contemplated by the Government of India "to consolidate India's hold over the bulk of Jammu and Kashmir, to demoralize its people and to interpose further obstacles in the establishment of conditions for the exercise of their free choice in regard to their future". It was further stated in the letter that as a result of those acts and the occurrence of sacrilegious acts disrespectful to the Muslim population as well as communal strife in Calcutta and other districts of West Bengal, "an extremely tense and explosive situation in *Azad* Kashmir and throughout Pakistan" had been created as a consequence of which "Indian-Pakistan relations had been dangerously strained".

By letter¹⁸ dated 24 January 1964, the representative of India denied the allegations of the representative of Pakistan concerning "the existence of a tense situation and an atmosphere of crisis". He asserted that the Pakistani request was "a propaganda move" intended to exploit certain recent incidents and to divert attention from the disturbances in East Pakistan affecting the minority community there. The attacks on the Hindu minorities in that area continued and, in

¹³ The appeal addressed on 11 January 1964 was circulated as S/5519, and the replies appeared in S/5519, and S/5519/Add.1, *O.R.*, 19th yr., *Suppl. for Jan.-Mar. 1964*, pp. 35-36.

¹⁴ 1086th meeting: para. 108. For texts of relevant statements, see: 1086th meeting: President (Bolivia), paras. 104-105; Brazil, paras. 58-59; China para. 197; Ivory Coast, para. 91; Morocco, para. 84; Panama,* paras. 21-36; United Kingdom, para. 78; United States, paras. 37-53.

¹⁵ S/5517, *O.R.*, 19th yr., *Suppl. for Jan.-Mar. 1964*, pp. 26-34.

¹⁶ S/5437, *O.R.*, 18th yr., *Suppl. for Oct.-Dec. 1963*, pp. 5-7.

¹⁷ S/5504, *O.R.*, 19th yr., *Suppl. for Jan.-Mar. 1964*, pp. 12-15.

¹⁸ S/5522, *O.R.*, 19th yr., *Suppl. for Jan.-Mar. 1964*, pp. 38-47.

fact, were being intensified. Hundreds of people had been killed and many thousands had been made homeless. The immediate preoccupation of the Government of India was to control those communal disturbances and give full protection to the life and property of all its citizens, to whatever religious or minority group they might belong. In a recent exchange of correspondence between the Presidents of India and Pakistan the text of which was included in the letter, the President of India had proposed that they join in "an immediate appeal to the people" of both countries "for communal peace and harmony". Unfortunately the response had been negative. Instead, the Government of Pakistan had chosen to adopt "an agitational approach". In the context of the prevailing situation, the discussions in the Council wherein charges and countercharges were likely to be exchanged "could only lead to exacerbation of feelings and to a worsening of the communal situation".

At the 1087th meeting on 3 February 1964, the Security Council agreed¹⁹ without objection to include the item in its agenda. The representatives of India and Pakistan were invited to participate in the discussion.

The Council considered the question at the 1087th to 1093rd meetings held between 3 and 17 February 1964, the 1104th to 1105th meetings, between 17 and 20 March 1964, and the 1112th to 1117th meetings between 5 and 18 May 1964.

In his initial statement at the 1087th meeting on 3 February 1964, the representative of Pakistan* requested an impartial examination of the existing situation in the relations between India and Pakistan. He asserted that Pakistan was committed to the cause of the liberation of the Kashmir people, and that it would persevere in the struggle until the right of self-determination, as pledged to them in the resolutions of the Security Council and the United Nations Commission for India and Pakistan (UNCIP), had been implemented. In waging that peaceful struggle, they were striving to uphold the purposes and principles of the United Nations Charter to avert the danger to international peace in Asia, and to promote respect for human rights. The people of the State of Jammu and Kashmir were living an "incredible drama of religious passions and political rebellion" against Indian rule. They were no longer prepared to tolerate India's hold over the State which had begun when it marched into Kashmir in October 1947. The Government of Pakistan had protested to the Government of India against its "unlawful and outrageous measures" which contravened the international legal obligations that India had accepted in respect of Kashmir. Among those were the provisions of the UNCIP resolution, to which India was a party, to the effect that the future of that State could be determined only by the people through a free and impartial plebiscite conducted under United Nations auspices. At the outset, the Government of India had made it clear through its own declarations and statements that the accession of Kashmir to India was not final and that a plebiscite was to be held to decide its future. However, on 27 October 1950, the so-called "All-Jammu and Kashmir National Conference" had adopted a resolution to convene a constituent assembly for the State to determine its "future shape and affiliation". Through that manoeuvre the Government of India had planned "to bypass the United Nations" and to have the so-called accession approved by a "compliant agency". Pakistan had

protested and brought the situation to the attention of the Security Council. Undeterred by the adverse resolutions of the Council, and despite Pakistan's repeated protests, the Government of India had continued to adopt measures usurping increasing power and authority over Kashmir. The latest measures showed that India was determined to continue to flout the Security Council by reducing the State to the level of a mere administrative unit of India. Those policies of India had led to upheavals in Kashmir and as a consequence of the denial of the right of self-determination to the people of that State, relations between Pakistan and India had been further aggravated, and a serious threat to peace and security in South-East Asia had developed. Pakistan had come before the Security Council to request that appropriate action be taken to ensure that the Kashmir dispute would move rapidly toward an honourable and just solution in the interest of the well-being of the people of the India-Pakistan subcontinent and of peace in Asia.²⁰

At the 1088th meeting on 5 February 1964, the representative of India* stated that there was no justification whatsoever for Pakistan to have taken up the time of the Council since no new situation had arisen to worsen the existing conditions in Kashmir. The complaint by Pakistan that a grave situation had arisen in that State as a consequence of steps taken by the Government of India in order to integrate Kashmir into the Indian Union was unfounded since legally or constitutionally the whole of Kashmir had become an integral part of India when the Ruler of Kashmir had executed the Instrument of Accession to India, and the Governor-General of India had accepted the Instrument. It was clear that international law did not require that the party to an agreement should look behind a recognized Government with whom it contracted to see that the agreement had been arrived at by prior consultation with the people. Besides, the accession of Kashmir had also been supported by the largest political party in the State. The Security Council resolutions dealing with the plebiscite were conditional and contingent on Pakistan vacating its aggression. Moreover, due to the passage of time and other factors those resolutions had become obsolete. The possibility of a plebiscite had been envisaged because at that time no elections had been held in Kashmir. However, since then the wishes of the people of Kashmir had been ascertained not once but in three elections held there. Under no circumstances, therefore, could India agree to the holding of a plebiscite in Kashmir. The representative of India then denied that the principle of self-determination was applicable in the case of Kashmir, explaining that it was operative only in dealing with a nation as a whole, and in situations of conquest, of foreign domination or of colonial exploitation. As in other parts of India, the policy of communal harmony prevailed in that State. The riots concerning which Pakistan had complained had come about because of the communal policy of Pakistan, and because of the incitement to communal passion of which that country's Government was guilty. With regard to the steps that the Council should take in connexion with the India-Pakistan controversy, the representative of India suggested that the passing of resolutions would not be helpful, and was most likely only to aggravate feelings. No resolution, however well drafted, would satisfy both the parties. What was

¹⁹ 1087th meeting: paras. 9, 12-13, 18, 42, 52, 59, 66, 74, 76, 95.

¹⁹ 1087th meeting: para. 2.

necessary was action to the effect of: (1) restoring normal conditions in the disturbed area of India and Pakistan and bringing about intercommunal unity and harmony in both countries; and (2) ascertaining that threats of violence which had emanated from Pakistan from time to time should ease, and that Pakistan unequivocally would declare along with India that the two countries would never resort to war and would settle all their outstanding differences by peaceful means.²¹

In a further statement at the 1089th meeting on 7 February 1964, the representative of Pakistan* suggested that if the information given by his delegation was considered insufficient, the Council should employ whatever machinery was feasible for a thorough and impartial fact finding in regard to the situation in the Indian-occupied area of Kashmir. Such an inquiry should include taking the evidence of all political prisoners in the area. In fact, the Council could only prevent a danger to international peace and security by keeping the situation in Indian-occupied Kashmir under its constant and independent scrutiny.²²

In his reply at the 1090th meeting on 10 February 1964, the representative of India,* asserting that decisions concerning the nationality of individuals was a domestic matter within the sovereign right of India, rejected Pakistan's suggestion, that there should be an inquiry by an impartial tribunal to decide whether certain Muslims who had been evicted were Indians or Pakistani nationals. Recalling Pakistan's allegation before the Council, that India was trying to integrate Kashmir further into India, that there existed a grave situation in Kashmir which called for some action by the Security Council, the representative observed that neither of those allegations had been substantiated and therefore there was nothing before the Council on which action needed to be taken.²³

At the 1090th meeting on 10 February 1964, the representative of Ivory Coast proposed²⁴ that at the conclusion of the Council's discussion, its President should formulate an appeal which would call upon India and Pakistan: (1) to re-establish a climate of understanding between themselves and to restore peace and harmony between the communities, and (2) to prevent a recurrence of acts of violence and to ensure communal security. The Council should request the two countries to resume their negotiations with a view to working out a peaceful solution of all their differences, including the question of Kashmir, and the Council should suggest to them to have recourse to the good offices of a country or a person of their choice, should they so desire.

At the 1117th meeting on 18 May 1964, at the conclusion of the debate during which several Council members made suggestions calling for direct negotiations, mediation, good offices, and other peaceful means of settlement, the President (France) stated that, pursuant to the Council's request on the proposal of the representative of Brazil supported by the representative of Norway, he had held consultations with all the members of the Council aimed at working out some common conclusion to be drawn from the Council's debate on that matter. However, it had been impossible to reach unanimity on an over-all conclu-

sion. He therefore had to limit himself to reporting to the Council: (1) the points where no difference of opinion appeared between the members of the Council; and (2) the different trends that were expressed on another point. In the first part of his report, after noting that the members of the Council had expressed their common concern that the Kashmir question should be settled amicably in the interests of world peace, the President remarked that there was a general feeling that recent developments might lead to a situation in which the conversations between the parties concerned would have a better chance of leading to a settlement, for which the parties were required to adopt an attitude of conciliation and moderation. Meanwhile, the members of the Council had expressed the hope that both parties would abstain from any act that might aggravate the situation, and that they would endeavour to re-establish peace and harmony among the communities. It had also been expected that, in the light of the recent debates, the parties concerned would resume their contacts as soon as possible in order to resolve their differences by negotiation. In the second part of his report, the President stated that a number of members of the Council had felt that the Secretary-General of the United Nations might eventually give useful assistance to the parties to facilitate the resumption of negotiations. On the other hand, other members of the Council had expressed the view that the negotiations between India and Pakistan might be complicated by the intervention of any outside elements, and that the parties should be left to come to agreement on the very principle of having recourse to the Secretary-General. The President also stated that the India-Pakistan question remained on the agenda of the Security Council.²⁵

Decision of 4 September 1965 (1237th meeting):

- (i) *Calling upon the Governments of India and Pakistan for an immediate cease-fire;*
- (ii) *Calling upon the two Governments to respect the cease-fire line, and have all armed personnel of each party withdrawn to its own side of the line;*
- (iii) *Calling upon the two Governments to co-operate fully with the UNMOGIP in its task concerning the cease-fire;*
- (iv) *Requesting the Secretary-General to report to the Council within three days on the implementation of this resolution*

At its 1237th meeting on 4 September 1965, when the Security Council resumed its consideration of the India-Pakistan question in connexion with the situation in Kashmir, the Council had before it telegrams²⁶ dated 1 September 1965 from the Secretary-General addressed to the Prime Minister of India and the President of Pakistan, and the report²⁷ by the Secretary-General dated 3 September 1965 on the current situation in Kashmir with particular reference to the cease-fire agreement, the cease-fire line and the functioning of the United Nations Military Observers Group in India and Pakistan (UNMOGIP).

In his identical telegrams concerning "the current grave situation in Kashmir", the Secretary-General stated that the cease-fire agreement of July 1949, observance of which had been assisted by the

²¹ 1088th meeting: paras. 3, 10-11, 15-16, 26, 31, 33, 70-71, 86-87.

²² 1089th meeting: paras. 26, 115.

²³ 1090th meeting: paras. 4-5, 11, 27, 52, 56.

²⁴ 1090th meeting: paras. 90-91.

²⁵ 1117th meeting: paras. 2-6.

²⁶ S/6647, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 233-234.

²⁷ S/6651, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 239-253.

UNMOGIP, was "now being so widely disregarded as to be reduced to little consequence". He added that "an outright military confrontation between the armed forces of India and Pakistan is threatened and may be imminent, which can have only the gravest implications for the peace of the world, and for the lives and well-being of the inhabitants of Kashmir and the peoples of India and Pakistan". In addressing himself directly, in that urgent way to the Prime Minister of India and the President of Pakistan, the Secretary-General further stated that since he believed firmly that they and their two Governments wished a peaceful solution of the problem of Kashmir, he appealed "in the interests of peace in your area and in the world, to indicate immediately your intention henceforth to respect the cease-fire agreement. Essential, of course, to the restoration of the cease-fire would be a cessation of crossings of the cease-fire line by armed personnel from one side of the line to the other, the withdrawal of armed personnel of each side that have occupied positions on the other party's side of the line, and a halt to all firing across the cease-fire line, from either side of it".

The report by the Secretary-General "on the current situation in Kashmir" was submitted in order to provide information for the use of the Security Council concerning the "grave situation that has developed in Kashmir", the deep concern which the Secretary-General felt about it, and the steps he had taken in the past weeks in seeking to avert further deterioration of that situation and to restore normal conditions in the area. For the same purpose, he had presented to the Council members individually on 31 August 1965 an informal and confidential paper, which had also been made available to India and Pakistan. The Secretary-General further reported that the current serious trouble affecting the cease-fire and the cease-fire line in Kashmir dated from 5 August 1965, and as a part of his report to the Council he included an annotated list of incidents since that date which had been investigated by United Nations Observers prior to 3 September 1965.

The Council considered the question at the 1237th to 1242nd meetings held between 4 and 20 September 1965, the 1244th to 1245th meetings between 22 and 27 September 1965, the 1247th to 1249th meetings between 25 and 28 October 1965, and the 1251st meeting on 5 November 1965.

At the 1237th meeting on 4 September 1965, after a preliminary discussion concerning the circumstances under which the meeting had been convened,²⁸ the Council adopted²⁹ a provisional agenda which included under the item "India-Pakistan question", the subitems telegrams dated 1 September 1965, from the Secretary-General, and the report of 3 September 1965 by the Secretary-General, referred to above. The President (United States) invited the representatives of India and Pakistan to participate in the Council's consideration of the question before it.³⁰

At the same meeting, the representative of India* stated that he wished to draw the attention of the members of the Council to "the second massive aggression against Kashmir" by Pakistan, after the "Pakistani aggression on the Indian State of Jammu and Kashmir in 1947-1948". The cease-fire agreement between India

and Pakistan, which had become effective since 1 January 1949, and the cease-fire line had been throughout the years, the subject of numerous violations by Pakistan which had perfected the technique of sending armed troops across the cease-fire line in civilian disguise. On 5 August 1965, large bodies of Pakistani troops in civilian disguise fully armed with automatic weapons, supplied with rations and large amounts of Indian currency, carrying transistor radios and propaganda literature, had begun to infiltrate across the cease-fire line and the international border into Kashmir. The strength of the Pakistani troops who had infiltrated across the cease-fire line in several carefully selected sectors was estimated at about 5,000. Their immediate objectives, according to documents captured from them and from statements made by prisoners, had been to destroy bridges, police stations and other important installations and also to cut roads. Further, they were to capture the summer capital of the State, Srinagar, and especially the adjacent airfield. There were also attempts to cut the Srinagar-Leh road, which was India's vital line of communication with the north-east portion of the State. Large groups of those armed troops clashed with Indian Security Forces within a depth of five to ten miles of the cease-fire line, from Punch to Naoshera on the western sector of the line. Heavy casualties had been inflicted on those troops and large numbers of them had surrendered. Large quantities of arms and equipment had also been captured. There was evidence of the complete involvement of the Pakistan Government in that armed infiltration. The weapons seized from the infiltrators, considering their range and the quantities of ammunition, could be supplied only by the Government of Pakistan. From the accounts given by the captured prisoners, it had been confirmed that the majority of the raiders belonged to the regular *Azad* Kashmir battalions of the Pakistan Army. During the course of the current invasion of Kashmir, Indian forces had occupied, purely as a defensive measure, strategic points across the cease-fire line, in the Tithwal and Uri sectors of the line. That had been the military action by India which Pakistan claimed had led it to cross the cease-fire line. When the Pakistani troops in civilian disguise began to be killed or captured or even to surrender, in large numbers, to the Indian Security Forces on 1 September 1965, Pakistan took the ultimate step. Pakistani troops in regular attack formation and in brigade strength supported by armoured regiments with Patton tanks had crossed the cease-fire line, and even the international boundary, in the south-western part of the Indian State of Jammu and Kashmir. The strength of those Pakistani troops, and the support provided by the armoured regiments and by fast modern aircraft, left no doubt that the attack was premeditated, well planned and in utter violation of the United Nations Charter, the principles of international law and the cease-fire agreement. There was overwhelming evidence which clearly proved that the invasion had been organized, directly controlled and conducted by Pakistan. Through such deliberate aggression, Pakistan had torn the cease-fire agreement to shreds and reduced the cease-fire line to a shambles. It was necessary for the Security Council to condemn Pakistan as an aggressor, and instruct it to withdraw from all parts of the Indian State of Jammu and Kashmir. The Council should likewise inculcate in Pakistan a sense of justice and a desire and willingness to live in peace and harmony with India.³¹

²⁸ For the procedural discussion concerning the authority of the President of the Council to call the meeting, see above, chapter I, part I, Case 6.

²⁹ 1237th meeting: paras. 1-61 and 74.

³⁰ 1237th meeting: para. 75.

³¹ 1237th meeting: paras. 80-83, 91-100, 120.

The representative of Pakistan * stated at the same meeting that he had not yet received any instructions from his Government, and that he reserved his right to express the viewpoint of his Government on the matter at a subsequent meeting of the Council. He wished, however, strongly and totally to repudiate the allegations made by the representative of India.³²

The representative of Malaysia introduced³³ a draft resolution jointly sponsored by Bolivia, Ivory Coast, Jordan, Malaysia, the Netherlands and Uruguay. He emphasized that the draft resolution made no findings; it produced no judgements in the tragic situation that had suddenly developed along and beyond the cease-fire line in Kashmir. Faced with an objective situation which called for the intervention of the Council which was solely concerned with and responsible for the peace and security of the world, it was the duty of the Council to call a halt to the escalation undertaken by the two States, and ask them to desist from pursuing their objectives through the dangerous paths of violence, in deference to the United Nations Charter.

At the same meeting, the Council adopted³⁴ unanimously the joint draft resolution.

The resolution³⁵ read:

"The Security Council,

"Noting the report of the Secretary-General of 3 September 1965,

"Having heard the statements of the representatives of India and Pakistan,

"Concerned at the deteriorating situation along the cease-fire line in Kashmir,

"1. Calls upon the Governments of India and Pakistan to take forthwith all steps for an immediate cease-fire;

"2. Calls upon the two Governments to respect the cease-fire line and have all armed personnel of each party withdrawn to its own side of the line;

"3. Calls upon the two Governments to cooperate fully with the United Nations Military Observer Group in India and Pakistan (UNMOGIP) in its task of supervising the observance of the cease-fire;

"4. Requests the Secretary-General to report to the Council within three days on the implementation of the present resolution."

Decision of 6 September 1965 (1238th meeting):

- (i) *Calling upon the parties to cease hostilities immediately in the entire area of conflict, and promptly withdraw all armed personnel to the positions held by them before 5 August 1965;*
- (ii) *Requesting the Secretary-General to exert every possible effort to give effect to the resolution and that of 4 September 1965, to take all measures possible to strengthen the UNMOGIP, and to keep the Council promptly and currently informed on the implementation of the resolutions and on the situation in the area;*
- (iii) *Deciding to keep the issue under urgent and continuous review so that the Council may determine what further steps may be necessary to secure peace and security in the area*

At the 1238th meeting on 6 September 1965, the Council had before it a report³⁶ of the same date by the Secretary-General on developments in the situation in Kashmir since the adoption of the Security Council cease-fire resolution on 4 September 1965. The resolution had been transmitted to the Governments of India and Pakistan immediately after its adoption. No official response to that call for a cease-fire had been received from either Government. Reports received from the Chief United Nations Military Observer in Kashmir, on 5 and 6 September however, indicated that the fighting continued on both sides of the cease-fire line. It was thus clear that the conflict between India and Pakistan was broadening and intensifying.

At the same meeting, the representative of Pakistan * stated that the invasion of Pakistan by India was not only a most "brazen aggression" on the territory of a Member State but a deliberate transgression of the very purposes and principles of the United Nations. Pakistan being conscious of the fact that it was one fifth of India's size and immeasurably smaller in military capacity and economic potential, could not even secretly harbour aggressive designs upon India. However, Pakistan had not been prepared to countenance India's usurpation of Kashmir, and had never hesitated to challenge India's annexation of that State against the wishes of its people and in contempt of the international agreement, made in January 1949, concerning the determination of the accession of that State to India or to Pakistan, by a free and impartial plebiscite conducted and controlled by the United Nations. The aggressive policy of the Government of India had been manifest when on 4 December 1965, the Home Minister of India announced that his Government had decided to annex Kashmir to India, thus making it impossible for the people of Kashmir ever to exercise their right of self-determination. India had later committed a "blatant act of aggression" when on 17 May 1965 it had seized three posts on the Pakistan side of the cease-fire line, in the Kargil area of Kashmir. Thus, with the alibi of the so-called infiltration of armed men into Indian-occupied Kashmir, India was the first to cross the cease-fire line into Kashmir, as had been announced in the Indian Parliament, on 23 August 1965, by the Defence Minister of India. That same day, Indian forces seized two posts in the Tithwal sector and, later, overran the Haji Pir Pass. Pakistan had first remained patient in the face of that clear aggression, but when it became evident that India disregarded the controlled reaction of Pakistan defensive action had to be taken by it in the Chhamb area of Kashmir. India was then the first to bring aircraft into the fighting, and thus enlarge the conflict. Those outstanding events had been later exceeded by an attack launched by the Indian Army on 6 September 1965, on the Lahore front, in Pakistan territory. In the gravity of the hour, Pakistan appealed to all free and freedom-loving countries to extend to it their full support in the exercise of its inherent right of individual and collective self-defence recognized in the United Nations Charter. As its Foreign Minister had stated in his message³⁷ to the President of the Council, Pakistan intended to exercise that right until the Security Council had taken effective measures to restore international peace and security by vacating India's aggression against Pakistan and Jammu and Kashmir. The situa-

³² 1237th meeting: paras. 125-127.

³³ 1237th meeting: paras. 130-138; S/6657.

³⁴ 1237th meeting: para. 218.

³⁵ S/RES/209 (1965), O.R., 20th yr., Resolutions and Decisions of the Security Council, 1965, pp. 13-14.

³⁶ S/6661, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 269-271.

³⁷ S/6669, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 282-283.

tion called for immediate action by the Council, including enforcement action to put an end to the Indian aggression, and to secure a lasting peace in the region.³⁸

At the same meeting, the representative of India* read out for the record of the Council the text of the reply³⁹ from the Minister of External Affairs of India to the communication of the Secretary-General forwarding the Council's resolution of 4 September 1965. The Government of India stated that an immediate cease-fire and the implementation of paragraph 2 of Security Council resolution 209 (1965) could be brought about only when Pakistan took effective steps to stop further crossings of the cease-fire line by armed and unarmed personnel and also immediately removed from the Indian side all such personnel who had already crossed the cease-fire line. Pakistan must also vacate aggression in the Chhamb area, forcibly occupied by Pakistan since 1 September and undertake to respect in the future the international border between India and Pakistan. Furthermore, India would have to be satisfied that there would be no recurrence of such a situation before a cease-fire could be effective and peace restored.

At the same meeting, the representative of Malaysia introduced⁴⁰ a draft resolution jointly sponsored by Bolivia, Ivory Coast, Jordan, Malaysia, the Netherlands and Uruguay. He pointed out that on the basis of two undeniable facts, namely that the Security Council was still waiting for some helpful response to its appeal for a cease-fire and that the conflict was obviously expanding and spreading, the draft resolution would express the Council's anxiety that prompt effect be given to its resolution of 4 September so that the "bloody conflict" was halted and did not spread.

At the same meeting, the Council adopted⁴¹ unanimously the joint draft resolution. The resolution⁴² read:

"The Security Council,

"Noting the report by the Secretary-General on developments in the situation in Kashmir since the adoption of Security Council resolution 209 (1965) of 4 September 1965 calling for a cease-fire,

"Noting with deep concern the extension of the fighting which adds immeasurably to the seriousness of the situation;

"1. Calls upon the parties to cease hostilities in the entire area of conflict immediately, and promptly withdraw all armed personnel back to the positions held by them before 5 August 1965;

"2. Requests the Secretary-General to exert every possible effort to give effect to the present resolution and to resolution 209 (1965), to take all measures possible to strengthen the United Nations Military Observer Group in India and Pakistan (UNMOGIP), and to keep the Council promptly and currently informed on the implementation of the resolutions and on the situation in the area;

"3. Decides to keep this issue under urgent and continuous review so that the Council may determine what further steps may be necessary to secure peace and security in the area."

³⁸ 1238th meeting: paras. 7-34.

³⁹ S/6673, 1238th meeting: para. 37.

⁴⁰ S/6662, 1238th meeting: paras. 61-65.

⁴¹ 1238th meeting: para. 69.

⁴² S/RES/210 (1965), O.R., 20th yr., Resolutions and Decisions of the Security Council, 1965, p. 14.

Decision of 20 September 1965 (1242nd meeting):

- (i) *Demanding that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT, and calling upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel back to the positions held by them before 5 August 1965;*
- (ii) *Requesting the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel;*
- (iii) *Calling on all States to refrain from any action which might aggravate the situation in the area;*
- (iv) *Deciding to consider as soon as operative paragraph 1 of the Council's resolution 210 of 6 September had been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calling on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end;*
- (v) *Requesting the Secretary-General to exert every possible effort to give effect to the resolution, to seek a peaceful solution and to report to the Security Council thereon*

At the 1239th meeting on 17 September 1965, the Council had before it the "Preliminary report by the Secretary-General on his mission to India and Pakistan".⁴³ In that report, dated 16 September 1965, the Secretary-General informed the Council that he had visited India and Pakistan in connexion with the resolution adopted unanimously by the Council on 6 September, and in which he had been requested to exert every effort to give effect to the Council's resolutions of 4 and 6 September relating to the conflict between India and Pakistan over Kashmir. The report included information regarding meetings held at Rawalpindi with the President and with the Foreign Minister and members of the Ministry of Foreign Affairs of Pakistan, and meetings held at New Delhi with the Prime Minister, the President and other high officials of the Government of India. The report also included the texts of messages exchanged with those Government authorities.

At the same meeting, the Council adopted⁴⁴ a provisional agenda which included under the item "India-Pakistan question", the subitem "Preliminary report by the Secretary-General on his visits to the Governments of India and Pakistan (S/6683)". In an additional report made before the Council, the Secretary-General gave an account of his impressions and conclusions formed during his mission, as well as an exposé of the views of the two Governments as expressed to him, concerning the critical situation and the Council's call and the Secretary-General's appeals for a cease-fire. In his report, the Secretary-General informed the Council of the failure so far of his efforts to secure compliance by the two sides with the Security Council's resolutions due to the fact that the current crisis had hardened previous positions since both Governments found it impossible to make concessions under the threat of force. Thus, a real danger to world

⁴³ S/6683, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 295-305.

⁴⁴ 1239th meeting: para. 3.

peace was imminent. Faced with "a situation of the greatest difficulty and complexity", the Security Council might wish to order the two Governments concerned, pursuant to Article 40 of the Charter, to desist from further hostile military actions, and to that end to issue cease-fire orders to their military forces. The Council might also declare that failure by the Governments concerned to comply with that order would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter. Among other steps that the Council might wish to take, could be a request to the two Heads of Government to meet together at the earliest possible time in a suitable country to discuss the current situation and the problems underlying it, with the aim of resolving the outstanding differences between their two countries and of reaching an honourable and equitable settlement.⁴⁵

At the 1242nd meeting on 20 September 1965, the representative of the Netherlands introduced⁴⁶ a draft resolution the contents of which, he stated, were the outcome of informal consultations with all the Council members. A wide degree of agreement had already been possible due to the fact that there was an absolute need, in view of the international situation in Asia, to stop the fighting before it could spread to other areas. The first and main object of the draft resolution was to "demand" that the cease-fire take effect on a given date and at a given hour. The second object was to facilitate negotiations by the parties about their underlying political problem. And for both those purposes, the draft resolution offered the assistance of the United Nations.

At the same meeting, the draft resolution was adopted⁴⁷ by 10 votes in favour, none against, with 1 abstention. The resolution⁴⁸ read:

"The Security Council,

"Having considered the reports of the Secretary-General on his consultations with the Governments of India and Pakistan,

"Commending the Secretary-General for his unrelenting efforts in furtherance of the objectives of Security Council's resolutions 209 (1965) and 210 (1965) of 4 and 6 September 1965,

"Having heard the statements of the representatives of India and Pakistan,

"Noting the differing replies by the parties to an appeal for a cease-fire as set out in the report of the Secretary-General, but noting further with concern that no cease-fire has yet come into being,

"Convinced that an early cessation of hostilities is essential as a first step towards a peaceful settlement of the outstanding differences between the two countries in Kashmir and other related matters,

"1. Demands that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel back to the positions held by them before 5 August 1965;

"2. Requests the Secretary-General to provide the necessary assistance to ensure supervision of

the cease-fire and withdrawal of all armed personnel;

"3. Calls on all States to refrain from any action which might aggravate the situation in the area;

"4. Decides to consider as soon as operative paragraph 1 of the Council's resolution 210 (1965) has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end;

"5. Requests the Secretary-General to exert every possible effort to give effect to the present resolution, to seek a peaceful solution, and to report to the Security Council thereon.

Decision of 22 September 1965 (1244th meeting):

Statement by the President

At the 1244th meeting on 22 September 1965, the Council had before it a report⁴⁹ by the Secretary-General on his efforts to give effect to Security Council resolution 211 (1965) of 20 September 1965.

In explaining the steps taken to provide the group of observers for the supervision of a cease-fire which had been accepted by both Governments the report stated that in view of the difference in origin and function between the United Nations Military Observer Group in India and Pakistan (UNMOGIP) and the new group of observers, the Secretary-General had decided to organize a separate group of observers which would be known as the United Nations India-Pakistan Observation Mission (UNIPOM).⁵⁰

At the conclusion of the meeting the President (United States) after noting the declarations made by the representative of Pakistan and the representative of India, made a statement,⁵¹ on behalf of the entire Council, expressing the Council's satisfaction that the cease-fire demanded in its resolution 211 of 20 September 1965, had been accepted by the two parties, and calling upon the Governments concerned to implement their adherence to the cease-fire call as rapidly as possible and in any case not later than 22.00 hours GMT, 22 September 1965.

Decision of 27 September 1965 (1245th meeting):

(i) *Expressing the grave concern of the Council that the cease-fire agreed to unconditionally by the Governments of India and Pakistan was not holding;*

(ii) *Recalling that the cease-fire demand in the Council's resolutions was unanimously endorsed by the Council and agreed to by the Governments of both India and Pakistan;*

(iii) *Demanding that the parties urgently honour their commitments to the Council to observe the cease-fire; and further calling upon the parties promptly to withdraw all armed personnel as necessary steps in the full implementation of the resolution of 20 September*

At the 1245th meeting on 27 September 1965, the Council adopted⁵² a provisional agenda which included, under the item "India-Pakistan question", the subitem "Report by the Secretary-General on the ob-

⁴⁵ S/6686, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 308-312; 1239th meeting: paras. 11-28.

⁴⁶ S/6694, 1242nd meeting: paras. 44-51.

⁴⁷ 1242nd meeting: para. 69.

⁴⁸ S/RFS/211 (1965), O.R., 20th yr., Resolutions and Decisions of the Security Council 1965, pp. 14-15.

⁴⁹ S/6699 and Add.1-5, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 329-338.

⁵⁰ See also chapter V, Case 6.

⁵¹ 1244th meeting (PV): paras. 49-50.

⁵² 1245th meeting (PV): p. 2.

servance of the cease-fire under Security Council resolution 211 of 20 September 1965 (S/6710 and Add.1-2).” The Council also had before it an additional report⁵³ by the Secretary-General on compliance with the withdrawal provision in Security Council resolution 211 (1965) of 20 September 1965.

The President (United States) read out a draft resolution⁵⁴ regarding the withdrawal of armed personnel which, he stated, reflected the consensus of the members of the Council.

At the same meeting, the draft resolution was adopted.⁵⁵ The resolution⁵⁶ read:

“The Security Council,

“Noting the reports of the Secretary-General,

“Reaffirming its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September and 211 (1965) of 20 September 1965,

“Expressing its grave concern that the cease-fire agreed to unconditionally by the Governments of India and Pakistan is not holding,

“Recalling that the cease-fire demand in the Council’s resolutions was unanimously endorsed by the Council and agreed to by the Governments of both India and Pakistan,

“Demands that the parties urgently honour their commitments to the Council to observe the cease-fire, and further calls upon the parties promptly to withdraw all armed personnel as necessary steps in the full implementation of resolution 211 (1965).”

Decision of 5 November 1965 (1251st meeting):

- (i) *Reaffirming the Council’s resolution 211 of 20 September 1965 in all its parts;*
- (ii) *Requesting the Governments of India and Pakistan to co-operate towards a full implementation of paragraph 1 of resolution 211; calling upon them to instruct their armed personnel to co-operate with the United Nations and cease all military activity; and insisting that there be an end to violations of the cease-fire;*
- (iii) *Demanding the prompt and unconditional execution of the proposal already agreed to in principle by the Governments of India and Pakistan that their representatives meet with a suitable representative of the Secretary-General, to be appointed without delay after consultation with both parties, for the purpose of formulating an agreed plan and schedule for the withdrawals by both parties; urging that such a meeting take place as soon as possible and that such a plan contain a time-limit on its implementation; and requesting the Secretary-General to report on the progress achieved, in this respect within three weeks of the adoption of the present resolution;*
- (iv) *Requesting the Secretary-General to submit for its consideration as soon as possible a report on compliance with the present resolution*

At the 1247th meeting on 25 October 1965, the

Council adopted⁵⁷ a provisional agenda which under the item “India-Pakistan question” included the sub-items “Letter dated 22 October 1965 from the Permanent Representative of Pakistan addressed to the President of the Security Council (S/6821),” and “Reports of the Secretary-General on withdrawals (S/6719/Add.3) and on the observance of the cease-fire (S/6710/Add. 5-7)”.

At the same meeting the representative of the USSR recalled that his delegation had always supported the resolutions adopted by the Security Council on the subject of the armed conflict between India and Pakistan and considered them to be the substantive factor in the normalization of the situation. With regard to the practical implementation of those resolutions, however, particularly of the Council’s resolutions of 6 and 20 September 1965, his delegation had a question which involved “matters of principle”. It was therefore essential to draw the attention of the Council to the fact that the actions undertaken by the Secretary-General in connexion with the question of the United Nations Observers in India and Pakistan departed from the provisions of the United Nations Charter “under which only the Security Council is competent to take the necessary decisions on specific matters connected with United Nations observers, namely, their functions, number, command, the financing of their activities, and so on. Meanwhile all these questions are being settled outside the Security Council, whose members are merely informed about measures that have already been taken.”⁵⁸

At the same meeting, after a procedural discussion concerning the raising of points of order by invited representatives, the representative of India withdrew from the Council table.⁵⁹

At the 1248th meeting on 27 October 1965, the President (Uruguay) having noted that the representative of India was absent from the Council chamber, proposed, and the Council agreed, that the representative of Pakistan be invited to participate in the discussion,⁶⁰ while the representative of India remained invited to take a seat at the Council table at any moment during the meeting.

At the 1251st meeting on 5 November 1965, the representative of the Netherlands introduced⁶¹ a draft resolution jointly sponsored by Bolivia, Ivory Coast, Malaysia, the Netherlands and Uruguay. He stated that the text had been drafted in constant consultation with all the members of the Council, and was intended to concentrate on the cease-fire and withdrawal of armed personnel, those points being at that moment the most urgent.

At the same meeting, the joint draft resolution was adopted.⁶² There were 9 votes in favour, none against, with 2 abstentions. The resolution⁶³ read:

“The Security Council,

“Regretting the delay in the full achievement of

⁵⁷ 1247th meeting: para. 17.

⁵⁸ 1247th meeting: para. 243. These reservations were reiterated at the 1251st meeting on 5 November 1965. 1251st meeting: paras. 83-85.

⁵⁹ 1247th meeting: para. 109. For the procedural discussion, see chapter III, Case 12.

⁶⁰ 1248th meeting: para. 1. For procedural discussion, see chapter III, Case 17.

⁶¹ S/6876, 1251st meeting: paras. 44-51.

⁶² 1251st meeting: para. 80.

⁶³ S/RES/215 (1965), O.R., 20th yr., Resolutions and Decisions of the Security Council, 1965, p. 16-17.

⁵³ S/6719, O.R., 20th yr., Suppl. for July-Sept. 1965, pp. 359-361.

⁵⁴ S/6720, 1245th meeting: para. 6.

⁵⁵ 1245th meeting: para. 6.

⁵⁶ S/RES/214 (1965), O.R., 20th yr., Resolutions and Decisions of the Security Council, 1965, p. 16.

a complete and effective cease-fire and a prompt withdrawal of armed personnel to the positions held by them before 5 August 1965, as called for in its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September, 211 (1965) of 20 September and 214 (1965) of 27 September 1965,

"1. *Reaffirms* its resolution 211 (1965) in all its parts;

"2. *Requests* the Governments of India and Pakistan to co-operate towards a full implementation of paragraph 1 of resolution 211 (1965); calls upon them to instruct their armed personnel to co-operate with the United Nations and cease all military activity; and insists that there be an end to violations of the cease-fire;

"3. *Demands* the prompt and unconditional execution of the proposal already agreed to in principle by the Governments of India and Pakistan that their representatives meet with a suitable representative of the Secretary-General, to be appointed without delay after consultation with both parties, for the purpose of formulating an agreed plan and schedule for the withdrawals by both parties; urges that such a meeting shall take place as soon as possible and that such a plan contain a time-limit on its implementation; and requests the Secretary-General to report on the progress achieved in this respect within three weeks of the adoption of the present resolution;

"4. *Requests* the Secretary-General to submit for its consideration as soon as possible a report on compliance with the present resolution."

COMPLAINT BY THE GOVERNMENT OF CYPRUS

Decision of 4 March 1964 (1102nd meeting):

- (i) *Calling upon all Member States to refrain from any action or threat of action likely to worsen the situation in Cyprus or to endanger international peace;*
- (ii) *Asking the Government of Cyprus, in accordance with its responsibilities to take all additional measures necessary to stop violence and bloodshed in Cyprus, and call upon the communities in Cyprus and their leaders to act with the utmost restraint;*
- (iii) *Recommending the creation of a United Nations force, to preserve international peace and security, to prevent a recurrence of fighting and to contribute to the restoration of law and order; the Commander of the force shall be appointed by the Secretary-General who should keep the contributing Governments fully informed and who should report periodically to the Security Council of its operation;*
- (iv) *Recommending that the stationing of the force shall be for a period of three months, all costs pertaining to it being met in a manner to be agreed upon by the Governments providing the contingents and by the Government of Cyprus;*
- (v) *Recommending further, that the Secretary-General designate in agreement with the Government of Cyprus and the Governments of Turkey and the United Kingdom, a mediator who should use his best endeavours with the representatives of the communities and the above-mentioned Governments for the pur-*

pose of promoting a peaceful solution and an agreed settlement of the problem confronting Cyprus; and further to provide funds for the remuneration and expenses of the mediator and his staff

By letter⁶⁴ dated 15 February 1964, the representative of the United Kingdom informed the Council that internal security in Cyprus had seriously deteriorated and that tension between the Greek and Turkish Cypriot communities had risen sharply, culminating in a serious act of violence in the town of Limassol on 12 February 1964. An early meeting of the Council was therefore requested to consider the matter and to take appropriate steps to ensure that the dangerous situation which then prevailed could be resolved with a full regard to the rights and responsibilities of both of the Cypriot communities, of the Government of Cyprus and of the Governments party to the Treaty of Guarantee.

It was recalled that in a letter⁶⁵ dated 8 January 1964, the Government of the United Kingdom had informed the Council on the steps it had taken within the spirit of the Charter and in close co-operation with the Governments of Turkey and Greece to avoid bloodshed and to promote a solution of the problems arising from the outbreak of intercommunal disturbances in Cyprus. It was further recalled that in that letter, reference was also made to the holding of a conference to resolve the difficulties which had arisen and to the joint request on the part of the Governments of the United Kingdom, Greece, Turkey and Cyprus, to the Secretary-General of the United Nations to appoint a representative to act as a United Nations observer in Cyprus, whose role would be to observe the progress of the peace-making operation and to report to the Secretary-General. Noting that the Agreements leading to the establishment of Cyprus as an independent Republic provided *inter alia* for a special relationship between Cyprus and the Governments of the United Kingdom, of Greece and of Turkey and for a Treaty of Alliance between Greece, Turkey and Cyprus, the letter then called attention to the fact that after a request by the Government of Cyprus that the troops stationed there be used to assist in the preservation of the cease-fire, and the restoration of peace "had been met", it became clear that an augmented force would be required if conditions of internal security were to be restored. Although the United Kingdom Government had consulted with the Government of Cyprus and the Governments of Greece and Turkey and a number of other Governments "about the need to associate the forces of other nations in an international peace-keeping arrangement on the island", it could not be effected owing to the inability of the Government of Cyprus to agree to the proposed arrangement.

In a letter⁶⁶ dated 15 February 1964, the Government of Cyprus referred to its complaint against the Government of Turkey⁶⁷ of which the Council had been seized, and called attention to "the increasing threat from war preparations on the coast of Turkey opposite Cyprus coupled with the declared intentions of the Turkish Government to interfere by force in

⁶⁴ S/5543, O.R., 19th yr., Suppl. for Jan.-Mar. 1964, pp. 66-67.

⁶⁵ S/5508, O.R., 19th yr., Suppl. for Jan.-Mar. 1964, pp. 16-18.

⁶⁶ S/5545, *ibid.*, pp. 69-70.

⁶⁷ S/5488, O.R., 18th yr., Suppl. for Oct.-Dec. 1963, pp. 112-114.