

“(d) By revoking all licences and military patents granted to the South African Government or to South African companies for the manufacture of arms and ammunition, aircraft and naval craft or other military vehicles and by refraining from further granting such licences and patents;

“(e) By prohibiting investment in, or technical assistance for, the manufacture of arms and ammunition, aircraft, naval craft, or other military vehicles;

“(f) By ceasing provision of military training for members of the South African armed forces and all other forms of military co-operation with South Africa;

“(g) By undertaking the appropriate action to give effect to the above measures;

“5. **Requests** the Secretary-General to follow closely the implementation of the present resolution and report to the Security Council from time to time;

“6. **Calls upon** all States to observe strictly the arms embargo against South Africa and to assist effectively in the implementation of the present resolution.”

REVIEW OF THE INTERNATIONAL SITUATION

Communiqué of 21 October 1970 (1555th meeting):

In a note⁵⁷⁴ dated 19 October 1970, the Secretary-General, in accordance with the final paragraph of the consensus⁵⁷⁵ expressed and approved by the Security Council on 12 June 1970, issued the following provisional agenda of the first periodic meeting of the Security Council which he had drawn up, in consultation with the members of the Council, and which had been approved by the Council's President:

“1. Adoption of the agenda

“2. Review of the international situation.”

The first periodic meeting of the Security Council, its 1555th meeting, was held in private on 21 October 1970. In accordance with rule 55 of the provisional rules of procedure of the Security Council,⁵⁷⁶ the following communiqué⁵⁷⁷ was issued by the Secretary-General at the close of that meeting in place of a verbatim record:

“1. The first periodic meeting of the Security Council envisaged in Article 28, paragraph 2, of the Charter was held on 21 October 1970 at the Headquarters of the United Nations in New York. The meeting was presided over by the Foreign Minister of Spain and attended by the Foreign Ministers of China, Colombia, Finland, France, Nepal, Nicaragua, Poland, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, by the Deputy Foreign Minister of Syria, and the Permanent Representatives to the United Nations of Burundi, Sierra Leone and Zambia.

“2. At the meeting the Secretary-General delivered a statement on the international situation. The representatives of the member States of the Security Council had a general exchange of views on current

issues affecting international peace and security. They pledged their full support for seeking peaceful solutions to outstanding international disputes and conflicts in accordance with the principles and purposes of the Charter of the United Nations.

“3. In reviewing issues currently before the Security Council, members of the Council also consulted on how to contribute to a peaceful political settlement in the Middle East. They reaffirmed their conviction that Security Council resolution 242 (1967) of 22 November 1967 should be supported and carried out in all its parts, and that to this end all concerned should fully co-operate in a concerted effort to promote the establishment of a just and lasting peace in the Middle East.

“4. With regard to the problems of southern Africa which have been considered by the Security Council, members of the Council reaffirmed their determination to continue their search for practicable means in conformity with the Charter, which would enable the peoples of that area to exercise their inalienable right to self-determination and to enjoy their fundamental human rights in freedom and dignity.

“5. Members of the Security Council declared that the capability of the Council to act effectively for the maintenance of international peace and security should be further strengthened. They agreed that the holding of periodic meetings in accordance with Article 28, paragraph 2, of the Charter was an important step in that direction. They also agreed to examine possibilities for further improvements in the methods of work of the Security Council in promoting the peaceful settlement of disputes in accordance with the Charter.

“6. In view of the primary responsibility of the Security Council for the maintenance of international peace and security, members of the Council emphasized the importance of reaching early agreement on guidelines for future peace-keeping operations in conformity with the Charter.

“7. It was agreed that the date of the next periodic meeting of the Security Council will be determined through consultations between the members of the Council.

“8. The representatives of Burundi, Sierra Leone and Zambia reserved their position on paragraph 4. The representative of Syria stated that his Government's position was reflected in his delegation's statement made at the meeting.”

SITUATION IN THE INDIA/PAKISTAN SUBCONTINENT

INITIAL PROCEEDINGS

By a report⁵⁷⁸ dated 3 December 1971, the Secretary-General brought to the attention of the Security Council the efforts he had so far made in regard to the further grave deterioration in the situation along the borders of East Pakistan and elsewhere in the subcontinent which, in his view, constituted a threat to international peace and security. The Secretary-General noted that while he had kept the President of the Security Council informed of these efforts under the broad terms of Article 99 of the United Nations Charter, he felt that the initiative on this matter in the Security

⁵⁷⁴ S/9965, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 28.

⁵⁷⁵ 1543th meeting, paras. 2 and 3. See also chapter I, Case 2.

⁵⁷⁶ S/96/Rev.5 (1969).

⁵⁷⁷ 1555th meeting, para. 1. See also Decision of 21 October 1970, OR, 25th yr., Resolutions and Decisions of the Security Council 1970, p. II.

⁵⁷⁸ S/10410 and Add.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 80-85.

Council could best be taken by the parties themselves or by the members of the Council.

By letter⁵⁷⁹ dated 4 December 1971, the representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom and the United States requested an urgent meeting of the Security Council to consider the recent deteriorating situation that had led to armed clashes between India and Pakistan. By letter⁵⁸⁰ dated 4 December 1971, the representative of Tunisia supported the request that the Council be convened.

At the 1606th meeting on 4 December 1971, the Security Council decided,⁵⁸¹ without vote, to include in its agenda the following items: "(a) Letter dated 4 December 1971 from the representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom and the United States of America to the President of the Security Council (S/10411),," and "(6) Report of the Secretary-General (S/10410)".

The question was considered by the Council at its 1606th to 1608th meetings on 4 to 6 December 1971.

At the 1606th meeting on 4 December 1971, in view of an announcement made by the President (Sierra Leone) that he had received a request for participation from the representative of Tunisia,⁵⁸² the representative of Italy stated that, owing to the urgency of the crisis that the Council was facing, the discussion should be restricted, for the first meeting of the Council on the item under consideration, to the members of the Council and the main parties concerned, i.e., India and Pakistan, if they wished to take part in the debate. He requested the President to convey invitations to the representatives of India and Pakistan to present their views to the Council.⁵⁸³

The representative of the USSR, having drawn the attention of the members of the Council to a letter⁵⁸⁴ from the delegation of Bangladesh which had been distributed to them, proposed that in so far as the said letter concerning current events in East Pakistan showed the emergence of the situation before the Council, it be issued in the form in which documents were customarily published in the United Nations, and that, as requested therein, a representative of Bangladesh be invited to participate in the meetings of the Security Council.⁵⁸⁵

The President (Sierra Leone) informed the Council that he had received a letter from the representative of India in which the latter had requested that his letter, together with a communication attached thereto and also addressed to the President of the Security Council by the delegation of Bangladesh, be circulated as a document of the Security Council. Noting that he had given instructions to that effect, the President ruled

that the Council defer consideration of the question of inviting Bangladesh until the document containing the application was before the Council.⁵⁸⁶

After a procedural discussion on the question of invitations,⁵⁸⁷ and on the circulation of documents in the Council, the representatives of India and Pakistan were invited to take part in the debate.⁵⁸⁸ Invitations were also extended to the representatives of Tunisia⁵⁸⁹ and Saudi Arabia⁵⁹⁰ at the 1607th meeting of the Council after a procedural discussion.

Decision of 4 December 1971 (1606th meeting) :

Suspension of the meeting

Decision of 4 December 1971 (1606th meeting) :

Rejection of the United States draft resolution

Decision of 5 December 1971 (1607th meeting) :

Rejection of the USSR draft resolution

Decision of 5 December 1971 (1607th meeting) :

Rejection of the eight-Power draft resolution

Decision of 6 December 1971 (1608th meeting) :
resolution 303 (1971)

In his opening statement, the representative of Pakistan* stated that the situation which had occasioned the request by nine delegations for the present meeting of the Security Council was the outbreak of full-scale hostilities between India and Pakistan on 3 December 1971. Having recalled that certain aspects of the situation in Pakistan, i.e., developments in East Pakistan and the adjacent Indian states, and their actual and possible consequences, had, on two previous occasions, already been brought to the attention of the members of the Security Council by the Secretary-General acting in fact, though not explicitly, in the exercise of his functions under Article 99, he held that in so far as the Security Council had not thought it fit to meet to consider the situation on the basis of the information provided by the Secretary-General, it should now interpret the letter from the nine delegations strictly and not with retrospective effect, that is, confine its consideration to the outbreak, on 3 December 1971, of full-scale hostilities between India and Pakistan. Noting that Pakistan's eastern province had been under massive attack by India's regular troops, tanks and aircraft since 21 November 1971, the representative of Pakistan stated that this unprovoked, pre-planned, large-scale and co-ordinated attack had culminated in full-scale war on 3 December 1971. India had not only launched an aggression against the territory of Pakistan but had openly demanded that Pakistan dismember itself, and in pursuance of that demand, had escalated its aggressive activities to bring about the disintegration of Pakistan. In his view, these two facts had to be the basis for the Security Council consideration of the question for the situation before the Council devolved on the Charter principle of territorial integrity of States, constituted a breach of the peace and involved not only Pakistan but all States in danger of being overrun by larger, more powerful, predatory neighbours. Having

⁵⁷⁹ S/10411, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 86.

⁵⁸⁰ S/10413, *Ibid.*, p. 89.

⁵⁸¹ 1606th meeting, para. 1.

⁵⁸² *Ibid.*, para. 2.

⁵⁸³ *Ibid.*, paras. 3, 10-15, 53-55.

⁵⁸⁴ S/10415, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 89-90. By a letter dated 4 December 1971 the representative of India transmitted to the President of the Security Council a copy of a letter also dated 4 December 1971 and addressed to the President of the Security Council by Justice Abu Sayud Chowdhury requesting to be allowed to make a statement before the Security Council on behalf of the people and Government of Bangladesh and signing himself "Leader, Bangladesh delegation to the United Nations."

⁵⁸⁵ 1606th meeting, paras. 5-9, 33.

⁵⁸⁶ *Ibid.*, paras. 28, 56. For a procedural discussion on deferment, the ruling of the President and the challenge thereto, see chapter I, part V under rules 30 and 35.

⁵⁸⁷ For the procedural discussion on the question of participation in the proceedings of the Security Council, see chapter III, part I, Case 1.

⁵⁸⁸ 1606th meeting, paras. 43-44.

⁵⁸⁹ 1607th meeting, para. 18.

⁵⁹⁰ *Ibid.*, paras. 20, 22.

recalled that India had first denied the involvement of its forces in the fighting which had begun in Pakistan territory on 21 December 1971, the representative of Pakistan noted that India had subsequently cited the right of self-defence thereby admitting its direct participation in the fighting. He observed that under the Charter of the United Nations it was not permissible for a Member State which had not been attacked to enter the territory of another Member State in the name of self-defence. Noting that India had alleged intrusion by Pakistan forces into Indian territory as an excuse for launching an armed attack on his country, the representative of Pakistan stated that prior to 3 December 1971, Pakistan had been the victim of acts of sabotage, subversion and terrorism committed by armed bands organized by India and that these acts had involved armed incursions into Pakistan from bases in Indian territory. He maintained that even the most elementary considerations of internal security had demanded the capture and expulsion of these bands from the territory of Pakistan but that at no time and place had the armed forces of Pakistan stationed in the East taken any steps beyond those which were adequate to safeguard the borders of the State and maintained its internal security. Invoking the principle that a State which is the victim in its own territory of subversive and/or terrorist acts by irregular, volunteer or armed bands organized by another State, was entitled to take all reasonable and adequate steps to safeguard its existence and its institutions, the representative of Pakistan emphasized that his country had not exceeded this right in suppressing armed and terrorist bands which aimed to bring about a dismemberment of the State. Having maintained, on the basis of statements by the Prime Minister of India, that India considered the preservation of Pakistan's territorial integrity, i.e., presence of Pakistan troops in East Pakistan as a threat to India's security, he held that whatever the nature of the internal crisis in Pakistan, it had posed no military threat to India. He held further that India's belligerence had given a dimension to Pakistan's internal crisis which it would not have had otherwise. He charged that the present situation, which gravely threatened international peace and security, was in fact an outcome of India's intervention in Pakistan's internal affairs and cited a number of acts of this intervention. Noting that his country acknowledged the international character of only one result of its internal crisis, i.e., the migration from East Pakistan of a large number of people into India, the representative of Pakistan pointed out that this was not a political problem but rather a humanitarian one, and that it would have been political if Pakistan were to deny their right to return to their homes. Such, however, was not the case. In closing, the representative of Pakistan requested the Security Council to find the means to make India desist from its act of aggression and stated that only means devised by the Security Council, consistent with Pakistan's independence, sovereignty and territorial integrity and with the principle of non-intervention in the domestic affairs of Member States, would command Pakistan's support and co-operation?

The representative of India? after pointing out that he was participating in the debate not under Article 31 of the Charter but under rules 37 and 38 of the Rules of Procedure, stated that the problem before the Council could not properly be considered as from any particular date: it had a long history behind it which

was essentially a history between the West Pakistan regime and the people of Bangladesh, and that therefore it would be impossible for the Council to obtain a proper perspective of the problem without the participation of the elected representatives of the people of Bangladesh. He maintained that by attempting to suppress militarily the wishes of the people as expressed in the outcome of the elections as to what kind of government they wanted, Pakistan itself, not India, was breaking up Pakistan, and, in the process, creating aggression against India. He charged that in view of its failure to suppress the rebellion in East Bengal, and its failure to obtain India's co-operation for the repression of the East Bengalis, Pakistan had attempted to internationalize the problem, that is, to turn it into an Indo-Pakistan dispute, by involving India first through refugee aggression, i.e., disruption of India's social and economic structure through an influx of refugees, and then through military aggression. After citing numerous complaints of border violations and stating that the Pakistan army had shelled civilian villages, the representative of India maintained that Indian troops had gone into Pakistan territory after 21 November 1971 only in the exercise of the right of self-defence. Having stated that India would not permit its national security to be jeopardized and that it would continue to help the people of Bangladesh in any way it could, short of fighting their battles, he warned the Security Council that India would not be a party to any solution that would mean continuation of the oppression of East Pakistani people. In closing, he emphasized that the question of a cease-fire was not one between India and Pakistan but between the Pakistan Army and the people of Bangladesh and that, therefore, the latter had to be heard before the Council.⁵⁹²

At the same meeting, the representative of the United States, having noted that civil strife in East Pakistan had created a new refugee community in India of unparalleled dimensions and had brought India and Pakistan into a state of open hostilities which could escalate into an all-out conflict, held that the situation constituted a grave threat to the peace and stability of Asia. He pointed out that the proposal by the United States Government that both sides should withdraw their military forces from their borders had been accepted by Pakistan but not by India. He also recalled that India had not joined Pakistan in heeding the Secretary-General's offer of his good offices to assist in the reconciliation of their differences. Referring to admitted incursions of Indian troops across the border of East Pakistan, the representative of the United States declared as unacceptable a situation in which a government intervened across its borders in the affairs of another with military force in violation of the Charter. He expressed the willingness of his government to support effective measures by the Security Council to bring about a cessation of hostilities and a withdrawal of forces so that progress could be made in building the political, economic and social conditions in East Pakistan in which the refugees would return from India and in which peace could be ensured.⁵⁹³ To this end, he submitted a draft resolution⁵⁹⁴ under the terms of which the Security Council, convinced that hostilities along the India-Pakistan border constituted an immediate threat to international peace and security, would: (1) call upon the Governments of India and

⁵⁹² *Ibid.*, paras. 150-1 85.

⁵⁹³ paras. 186200.

⁵⁹⁴ S/10416, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 90.

Pakistan to take all steps required for an immediate cessation of hostilities; (2) call for an immediate withdrawal of armed personnel present on the territory of the other to their own sides of the India-Pakistan borders; (3) authorize the Secretary-General, at the request of the Government of India or Pakistan, to place observers along the borders to report on the implementation of the cease-fire and troops withdrawal, drawing as necessary on UNMOGIP personnel; (4) call upon the Governments of India and Pakistan and others concerned to exert their best efforts towards the creation of a climate conducive to the voluntary return of refugees to East Pakistan; (5) call upon all States to refrain from any action that would endanger the peace in the area; (6) invite the Governments of India and Pakistan to respond affirmatively to the proposal of the Secretary-General offering his good offices to secure and maintain peace in the subcontinent; and (7) request the Secretary-General to report to the Security Council as soon as possible on the implementation of the resolution.

The representative of France observed that the situation in the **Indo-Pakistan** subcontinent had two aspects: the first was political in nature and affected the relations between the Government of Pakistan and the population of East Pakistan; the second was derived from the first, by reason of the influx of refugees to India, and affected relations between India and Pakistan. He felt that consideration by the Security Council of the first aspect of the situation only could be regarded as interference in internal affairs of Pakistan; consideration of the second aspect only could be regarded as partial and **superficial** in view of the millions of refugees under India's care. The representative of France held that it was the duty of the members of the Council to put an end to the hostilities, to alleviate the suffering of the people, and to deal with the causes of the crisis, with the consent of the parties, by negotiation, to reach a just and peaceful settlement.⁵⁹⁵

The representative of China stated that India, using the question of East Pakistan, had committed armed aggression against Pakistan. He asked the Security Council to condemn this act of aggression and to demand the immediate and unconditional withdrawal of all armed forces of India from Pakistan.⁵⁹⁶

The representative of the USSR stated that as a result of the political crisis in East Pakistan, the interruption of talks between the military administration of Pakistan and the lawful representatives of the Pakistan people, and the application of force and terror by the military authorities against the people of East Pakistan, ten million people had been compelled to flee their homeland and take refuge in India. Having recalled that the representative of Pakistan had, in his statement before the Council, acknowledged that there was a serious domestic crisis in his country which had acquired an international character, he referred to the question of whether the Security Council should deal with the root causes of that crisis, inasmuch as that might constitute interference in Pakistan's internal affairs. He held that under Articles 39, 40 and 41 of the Charter, the Council unquestionably had the right to examine the causes of the emergence of dangerous situations which threatened international peace and security. The representative of the USSR maintained

that the dangerous course of events in the **Indo-Pakistan** subcontinent called for a speedy attainment of a political settlement in East Pakistan which would take into account the inalienable rights and lawful interests of its population and permit the refugees to return to their homes peacefully and in an atmosphere of security. Commenting on the draft resolution submitted by the United States, he expressed the position of his delegation that it was one-sided and unacceptable because it tried to shift responsibility from the guilty to the innocent.⁵⁹⁷

The representative of the United States requested a suspension of the meeting for twenty minutes to give the members of the Council time to hold consultations on his delegation's draft resolution?

The representative of the USSR made an amendment to the United States proposal to the effect that the meeting should be adjourned for twenty-four hours instead of twenty minutes.⁵⁹⁹

After a brief procedural discussion, the United States proposal to suspend the meeting for twenty minutes was put to the vote. It was adopted⁶⁰⁰ by 10 votes in favour, none against, with 4 abstentions and one member of the Council not participating in the vote.

After a brief suspension of the meeting, the representative of the USSR, introduced a draft resolution⁶⁰¹ by which the Security Council would call for a political settlement in East Pakistan which would inevitably result in a cessation of hostilities; and call upon the Government of Pakistan to take measures to cease all acts of violence by Pakistani forces in East Pakistan which had led to the deterioration of the situation.

The President (Sierra Leone), having noted that there were now two draft resolutions before the Council, one submitted by the United States and the other by the USSR, proposed that in the absence of further speakers, the Council should proceed to the vote.⁶⁰²

Thereafter, the representative of Somalia introduced a draft resolution,⁶⁰³ jointly sponsored by the delegations of Argentina, Burundi, Nicaragua and Sierra Leone, under the terms of which the Security Council, convinced that hostilities along the India-Pakistan border constituted an immediate threat to international peace and security, would recognize the need to deal appropriately at a subsequent stage, within the framework of the Charter of the United Nations, with the issues which had given rise to the hostilities; call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal of their armed forces on the territory of the other to their own side of the India-Pakistan border; and request the Secretary-General to keep the Council promptly and currently informed on the situation.

Subsequently, the representative of Italy announced that his delegation, together with two other delegations, had prepared a draft resolution and proposed to introduce it after the first vote, that is, the vote on the

⁵⁹⁷ *Ibid.*, paras. 251-278.

⁵⁹⁸ *Ibid.*, para. 342.

⁵⁹⁹ *Ibid.*, para. 349.

⁶⁰⁰ *Ibid.*, para. 354.

⁶⁰¹ S/1041 S (mimeo) incorporated into the text of 1606th meeting, para. 358.

⁶⁰² 1606th meeting, para. 368.

⁶⁰³ S/10419, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 91. 1606th meeting, para. 369. This draft resolution was superseded by draft resolution S/10423. See foot-note 617 below.

⁵⁹⁵ 1606th meeting, paras. 220-227.

⁵⁹⁶ *Ibid.*, paras. 235-240.

United States draft resolution, in order that the Council might have all the different proposals before it.⁶⁰⁴

The Council then proceeded to vote on the United States draft resolution which failed of adoption. The vote was 11 in favour, 2 against with 2 abstentions, one of the negative votes being that of a permanent member of the Council.⁶⁰⁵

After a brief procedural discussion on a point of order raised by the representative of the USSR,⁶⁰⁶ the representative of Italy introduced a joint draft resolution⁶⁰⁷ sponsored by the representatives of Belgium, Japan and Italy, which provided that the Security Council would: (1) call upon the Governments concerned forthwith as a first step, for an immediate cease-fire and for a cessation of all military activities; (2) urge the Governments concerned to intensify their efforts to bring about conditions necessary for the speedy and voluntary repatriation of the millions of refugees to their homes; (3) call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; (4) request the Secretary-General to keep the Council promptly and currently informed on the situation; and (5) decide to follow closely the situation and to meet again as soon as necessary.

In introducing the draft resolution, the representative of Italy stated that its sponsors felt that the Council should not adjourn without making a further attempt to adopt a decision in order to stop the fighting and to take a first step towards the final political solution of the question under consideration. He pointed out that its operative paragraphs 2 and 3 contained the provisions of a resolution that had already been adopted by the Third Committee of the General Assembly.⁶⁰⁸ He added that the sponsors of the draft resolution were ready to consider any suggestions and amendments leading to a Security Council consensus.⁶⁰⁹

After a procedural debate about another suspension of the meeting and the order in which the draft resolutions should be voted upon, the meeting was adjourned.⁶¹⁰

At its 1607th meeting on 5 December 1971, the Security Council included⁶¹¹ on its agenda an additional report⁶¹² from the Secretary-General transmitting the texts of two messages he had received from the Prime Minister of India and the President of Pakistan respectively in which the latter had charged and the former had denied that India had launched an attack on West Pakistan. Also included on the agenda was the report⁶¹³ of the Secretary-General on the situation along the

⁶⁰⁴ 1606th meeting, para. 370.

⁶⁰⁵ *Ibid.*, para. 371.

⁶⁰⁶ *Ibid.*, para. 378. See also chapter I, part V, Case 37 of this Supplement.

⁶⁰⁷ S/10417, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 90-91. This draft resolution was superseded by draft resolution S/10423. See foot-note 617.

⁶⁰⁸ Later adopted as General Assembly resolution 2790A (XXVI). See GA, OR, 26th session, Suppl. No. 29 (A/8429), pp. 84-85.

⁶⁰⁹ 1606th meeting, paras. 384-387.

⁶¹⁰ *Ibid.*, para. 439. For the question of precedence in the voting of draft resolutions, see chapter I, Case 37.

⁶¹¹ 1607th meeting, para. 1.

⁶¹² S/10410/Add.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 85-86.

⁶¹³ S/10412, *Ibid.*, pp. 87-88. Note that at the 1608th meeting, the Council also included in its agenda an additional report on the situation along the cease-fire line in Kashmir (S/10412/Add.1, *Ibid.*, pp. 88-89).

cease-fire line in Kashmir. In view of the question before the Security Council, the Secretary-General had considered it appropriate to make available to the Council members information regarding violations and admitted systematic non-observance of the Karachi Agreement along the cease-fire line in the State of Jammu and Kashmir.

After an initial procedural discussion on participation, the Security Council decided⁶¹⁴ to adjourn the consideration of the question of extending an invitation to a representative of Bangladesh to a later date for further consultations.

At the same meeting, the representative of China introduced a draft resolution⁶¹⁵ by which the Security Council, after strongly condemning the Indian Government's acts of creating a so-called "Bangladesh" and of subverting, dismembering and committing aggression against Pakistan, would call upon the Government of India to withdraw its armed forces and personnel from Pakistan territory immediately and unconditionally and call upon the Government of Pakistan to withdraw the armed forces it had sent into Indian territory for counter-attacks; call upon India and Pakistan to cease hostilities and to withdraw respectively from the international border between India and Pakistan and to disengage from each other so as to create conditions for a peaceful settlement of their disputes; call upon all States to support the Pakistan people in their just struggle to resist Indian aggression; and request the Secretary-General to submit as early as possible a report on the implementation of this resolution.

Introducing his draft resolution, the representative of China expressed his objection to the argument that a request could first be made for a cease-fire by both India and Pakistan and the cessation of all military actions while the question of withdrawal of military forces could be deferred to a later date. He held that in so far as India had carried out subversion and committed aggression by sending troops to invade Pakistan territory, the demand for immediate, unconditional and complete withdrawal of Indian troops, would be tantamount to encouraging aggression and recognizing the presence of Indian troops on Pakistan territory as legal. He called upon the Member States sponsoring draft resolutions before the Council to give serious consideration to such consequences.⁶¹⁶

At the same meeting, the representative of Argentina introduced a draft resolution⁶¹⁷ jointly sponsored with the representatives of Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia, by which the Security Council would: (1) call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal for

⁶¹⁴ 1607th meeting, para. 72. For a discussion of the applicability of rule 39 of the provisional rules of procedure, see chapter III, part I, Case 7 of this Supplement.

⁶¹⁵ S/10421, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 92. At the 1607th meeting the representative of China stated that he did not ask to have this draft resolution put to a vote because his delegation was holding consultations in connexion with it (1607th meeting, para. 239). At the 1608th meeting, the President (Sierra Leone), stated that the Chinese draft resolution was not pressed to the vote (1608th meeting, para. 277).

⁶¹⁶ 1607th meeting, paras. 74-76.

⁶¹⁷ S/10423, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 93. This draft resolution superseded draft resolutions contained in documents S/10419 and S/10417 (see foot-notes 603 and 607 above) as stated by the President of the Council at the 1607th meeting. (1607th meeting, para. 215.)

their armed forces on the territory of the other to their own side of the India-Pakistan borders; (2) urge that efforts be intensified in order to bring about, speedily and in accordance with the Charter, conditions necessary for the voluntary return of the East Pakistan refugees to their homes; (3) call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; (4) request the Secretary-General to keep the Council promptly and currently informed on the implementation of this resolution; and (5) decide to follow the situation closely and to meet again as soon as necessary.

Introducing the joint draft resolution, the representative of Argentina stated that the sponsors' primary concern was to seek a way to find a solution that would be satisfactory to the parties to the conflict. The draft resolution had taken cognizance of the need to deal adequately, at a later stage and within the framework of the Charter, with the questions which had given rise to the hostilities. However, at present the most urgent task was to restore peace in the region. The draft resolution was the result of consultations among the sponsors of the two draft resolutions previously submitted to the Council (S/10417 and S/10419), who were able to overcome their differences.⁶¹⁸

At the same meeting, the Security Council voted upon the draft resolution submitted by the USSR which was not adopted. It received 2 votes in favour, 1 against and 12 abstentions.⁶¹⁹

Then the Council voted upon the joint draft resolution submitted by Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia, which received 11 votes in favour, 2 against with 2 abstentions and failed of adoption owing to the negative vote of one of the permanent members of the Council.⁶²⁰

The representative of Italy then introduced⁶²¹ a joint draft resolution,⁶²² sponsored by the representatives of Belgium, Italy, Japan, Nicaragua, Sierra Leone and Tunisia,* which, in the view of its sponsors, did not prejudice any of the issues raised during the debate nor any of the measures which the Council would have to take in the future. Under the terms of this draft resolution, the Security Council would: (1) call upon the Governments concerned forthwith, as a first step for an immediate cease-fire; (2) request the Secretary-General to keep the Council promptly and currently informed of the implementation of this resolution; and (3) decide to continue to discuss further measures to be taken in order to restore peace in the area.

At the 1608th meeting on 6 December 1971, the representative of the USSR pointed out that one of the co-sponsors of the draft resolution contained in document S/10425, Tunisia, was not a member of the Security Council. He pointed out that it was not customary in the practice of the Council for a non-member State to co-sponsor a draft resolution, without its co-sponsorship being endorsed or taken over by a member of the Council.⁶²³

After a procedural debate regarding rule 38 of the rules of procedure,⁶²⁴ the representative of Tunisia* stated, that, in order to facilitate the work of the Council, Tunisia would withdraw as a co-sponsor of the draft resolution.⁶²⁵

Subsequently, the representative of France stated that his delegation, together with the delegation of the United Kingdom, had drawn up a draft resolution largely based upon previous texts because it had seemed to them that such a draft resolution could marshal the greatest support without bringing about any irreducible opposition. However, the draft resolution would not be submitted because the consultations that they had undertaken had convinced them that it would be faced with exceptions and objections. He wished none the less to read it out because it was important to have it set down in the archives of the Council. By the operative paragraphs of that draft resolution the Security Council would have: called upon the Governments concerned to order forthwith, as a first step, an immediate cease-fire, the cessation of all military activities and mutual disengagement; urged that efforts be deployed to create the necessary conditions for the voluntary return of refugees from East Pakistan in accordance with the Charter; asked all States to co-operate fully with the Secretary-General with a view to lending assistance to these refugees and alleviating their plight; requested the Secretary-General to keep the Council promptly and regularly informed of the implementation of this resolution; and decided to follow the situation closely and to meet again as soon as necessary.⁶²⁶

At the same meeting the representative of the USSR, commenting on the draft resolution submitted by the representatives of Belgium, Italy, Japan, Nicaragua, and Sierra Leone (S/10425), maintained that the five-Power draft resolution was inadequate in meeting the situation created by the policy of repression pursued by the Government of Pakistan against the people of East Pakistan. Under the circumstances, the only correct course for the Council to follow would be the adoption of a decision in which both the question of the cease-fire and the question of the political settlement of the crisis in East Pakistan were organically and inseparably bound together. Accordingly, he submitted the following amendments⁶²⁷ to the five-Power draft resolution: in operative paragraph 1, to replace the words "all Governments concerned" by the words "all parties concerned", and at the end of the same paragraph, to add the words "and cessation of all military operations"; between operative paragraphs 1 and 2, to insert two new operative paragraphs, by which the Security Council would call upon the Government of Pakistan simultaneously to take effective action towards a political settlement in East Pakistan, giving immediate recognition to the will of the East Pakistan population as expressed in the elections of December 1970, and would declare that the provisions of operative paragraphs 1 and 2 of this resolution constituted a single whole.⁶²⁸

The representative of Italy announced that the sponsors of the five-Power draft resolution (S/10425)

⁶¹⁸ 1607th meeting, paras. 199-202.

⁶¹⁹ *Ibid.*, para. 217.

⁶²⁰ *Ibid.*, para. 240.

⁶²¹ *Ibid.*, para. 260.

⁶²² S/10425, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 94.

⁶²³ 1608th meeting, para. 15.

⁶²⁴ For consideration of question concerning the submission of proposals or draft resolutions by invited representatives, see in chapter III, Case 9 of this *Supplement*.

⁶²⁵ 1608th meeting, paras. 23 and 24.

⁶²⁶ *Ibid.*, paras. 42-45, 116, 279.

⁶²⁷ S/10426 and Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 94.

⁶²⁸ 1608th meeting, paras. 46-63.

had decided to withdraw it because in the last twenty-four hours the situation had radically changed whereby the draft resolution was no longer up to date.⁶²⁹

The representative of Somalia introduced a draft resolution⁶³⁰ jointly sponsored with the representatives of Argentina, Burundi, Japan, Nicaragua and Sierra Leone. He observed that in spite of the proliferation of draft resolutions submitted to the Council, it was not possible to reach a formula acceptable to all its members despite the fact that there was no aspect of the problem which could not be related to one provision or another of the Charter and which could not be settled within its scope. He noted that in the course of the debate, his delegation, together with other delegations, had attempted to formulate a resolution which would not only reflect the concern of the United Nations with the situation under consideration but also be predicated upon the principles and purposes of the Charter. As a result of that attempt the Council had had before it the draft resolution S/10423, which had received the negative vote of a permanent member of the Council. He held that the time had come for the Council to transfer the question to the General Assembly under section A of the "Uniting for peace" resolution, so that it might receive the consideration of all the Member States of the United Nations.⁶³¹

The representative of the USSR also introduced⁶³² a draft resolution⁶³³ which contained the provisions of the five-Power draft resolution (S/10425) together with the amendments to it, previously submitted by his own delegation (S/10426).

Subsequently, the six-Power draft resolution introduced by Somalia (S/10429) was voted upon and adopted⁶³⁴ by 11 votes in favour, none against and 4 abstentions. It read as follows:⁶³⁵

"The Security Council,

"Having considered the item on the agenda of its 1606th meeting, as contained in document S/Agenda/1606,

"Taking into account that the lack of unanimity of its permanent members at the 1606th and 1607th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to refer the question contained in document S/Agenda/1606 to the General Assembly at its twenty-sixth session, as provided for in General Assembly resolution 377 A (V) of 3 November 1950."

Decision of 13 December 1971 (1613th meeting):

Rejection of the United States draft resolution

Decision of 14 December 1971 (1614th meeting):

Adjournment of the meeting

⁶²⁹ 1608th meeting, paras. 65-68.

⁶³⁰ S/10429, adopted without change as resolution 303 (1971).

⁶³¹ 1608th meeting, paras. 128-138. For consideration of the question of transferring the consideration of the item in the agenda under General Assembly resolution 377 A (V) of 3 November 1950 and practices and proceedings in relation to Article 12 of the Charter, see chapter VI, part I.

⁶³² 1608th meeting, paras. 160-162.

⁶³³ S/10428, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, p. 95. This draft resolution was not pressed to the vote. In this connexion see the statement made by the President (Sierra Leone), 1608th meeting, para. 277.

⁶³⁴ 1608th meeting, para. 322.

⁶³⁵ Resolution 303 (1971).

Decision of 21 December 1971 (1621st meeting): resolution 307 (1971)

By letter⁶³⁶ dated 12 December 1971, the representative of the United States stated that the war on the India-Pakistan subcontinent continued to rage unabated. Urgent efforts by the Security Council to effect a cease-fire and withdrawal at its 1606th, 1607th and 1608th meetings had failed, thus necessitating immediate referral of the crisis to the General Assembly under the "Uniting for peace" procedure.⁶³⁷ The Assembly had considered this grave situation and had adopted resolution 2793 (XXVI)⁶³⁸ which *inter alia* called on India and Pakistan to institute a cease-fire and to withdraw troops from each other's territories. One of the parties, Pakistan, had accepted the resolution. The other party, India, had not yet done so. The United States believed that the Security Council had an obligation to end this threat to world peace on a most urgent basis and it had therefore requested the convening of an immediate meeting of the Security Council.

At the 1611th meeting on 12 December 1971, the Security Council had before it a provisional agenda which read as follows:

*"Letter dated 12 December 1971 from the permanent representative of the United States of America to the United Nations addressed to the President of the Security Council S/10444."*⁶³⁹

The agenda was adopted⁶⁴⁰ without any objection.

The question was considered by the Security Council at its 1611th, 1613th to 1617th and 1621st meetings between 12 and 21 December 1971. In accordance with previous decisions⁶⁴¹ the representatives of India, Pakistan, Saudi Arabia and Tunisia were invited to participate in the discussion. At the 1615th meeting, the representative of Ceylon⁶⁴² was also invited to participate in the discussion.

At the request of the representative of the United States, the Under-Secretary-General for Political and Security Council Affairs, on behalf of the Secretary-General, reported that immediately after the adoption by the General Assembly on 17 December 1971 of resolution 2793 (XVI), the Secretary-General had communicated the text of that resolution to the Governments of India and Pakistan. The replies were to be distributed later that date.⁶⁴³

The representative of the United States stated that in view of India's defiance of world opinion, expressed in the adoption of GA resolution 2793 (XXVI) by such an overwhelming majority, the United States was referring the issue back to the Security Council. Pakistan had accepted the General Assembly resolution,

⁶³⁶ S/10444, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, pp. 104 and 105.

⁶³⁷ In accordance with General Assembly resolution 377 (V).

⁶³⁸ *GA, OR, 26th sess., plen. m., 2003rd meeting*, para. 490.

⁶³⁹ At the 1614th meeting, at the suggestion of the representative of Somalia, the agenda was amended to read as follows: "The situation in the India/Pakistan subcontinent". For the adoption of the agenda, see chapter II, Case 8.

⁶⁴⁰ 1611th meeting, paras. 1-2.

⁶⁴¹ See foot-notes 588, 589 and 590 above.

⁶⁴² 1615th meeting, para. 3.

⁶⁴³ 1611th meeting, para. 8. The reply from the Government of Pakistan is contained in document S/10440, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, p. 103. The reply from the Government of India is contained in document S/10445, *ibid.*, pp. 105-106. For the statement of the Under-Secretary-General see in chapter I, Case 20.

and the Council had the responsibility to demand immediate compliance by India. The Council should also insist that India give a clear and unequivocal assurance that it did not intend to annex Pakistan territory or change the *status quo* in Kashmir, contrary to United Nations resolutions.⁶⁴⁴ The representative of the United States concluded his statement by submitting a draft resolution⁶⁴⁵ under the terms of the revised text of which, the Security Council would inter *alia*: call upon the Governments of India and Pakistan to take forthwith all measures for an immediate cease-fire and withdrawal of their armed forces on the territory of the other to their own side of the India-Pakistan borders; urge that efforts be intensified in order to bring about, speedily and in accordance with the purposes and principles of the Charter of the United Nations, conditions necessary for the voluntary return of the East Pakistan refugees to their homes; call for the full co-operation of all States with the Secretary-General for rendering assistance to and relieving the distress of those refugees; call upon the parties concerned to take all possible measures and precautions to safeguard the lives and well-being of the civilian population in the area; and request the Secretary-General to keep the Security Council promptly and currently informed on the implementation of this resolution.

The representative of India outlined in detail the views of his Government on the events that had led to the crisis and stated that it was essential for the Council to take note of them in seeking a constructive solution to the conflict. He noted that his Government had endeavoured, since the beginning of the crisis in East Pakistan on 25 March 1971, to put the problem in perspective and though the genesis of the problem had been explained and the prognosis of its implications outlined repeatedly, the international community had failed to understand fundamental causation and had thus found itself unable to remedy it at its roots. He stated that it was after Pakistan's massive attacks and military provocations against his country that India had decided to move into Bangladesh and to repel the Pakistan aggression in the west. In face of unprovoked aggression India had been compelled to take the necessary steps to defend its territorial integrity and security. The people of Bangladesh, battling for their very existence, and the people of India, fighting to defeat aggression, had found themselves partisans in the same cause, and therefore the Government of India had accorded recognition to the People's Republic of Bangladesh on 6 December 1971. That recognition had been delayed to avoid any precipitation of the crisis, but the emergence of Bangladesh had been based on the manifest will of the people of East Bengal. The entry of Indian armed forces into Bangladesh had not been motivated by any intention of territorial aggrandizement. India had recognized Bangladesh to provide a proper juridical and political basis for the presence of the Indian army in support of the Bangladesh Government in that country, and Indian armed forces would remain in Bangladesh territory only as long as Bangladesh required their presence. India earnestly hoped that the United Nations would consider once again the realities of the situation, so that the basic causes of

the conflict could be removed and peace restored. However any resolution of the Council would be ineffective, if it did not take full note of the successful struggle of the people of Bangladesh and of the fact that the Government of Bangladesh was in effective control of its territory.⁶⁴⁶

The representative of Pakistan said that his country's fight was for principles that affected all States. The first principle concerned in this struggle was that a sovereign, independent State, brought into being by its own will, should not be dismembered by force; the second principle was that the United Nations, and particularly the Security Council upon which the Charter had placed the primary responsibility for the maintenance of international peace and security, must discharge its responsibilities towards collective security. Another basic unalterable principle of international law was non-interference in the internal affairs of other countries, but all that the Indian Foreign Minister had spoken about was the internal affairs of Pakistan. The basic issue was not, as India had claimed, a question of self-determination. Had India believed in self-determination, the people of the state of Jammu and Kashmir, would have been allowed a long time ago to decide whether they were going to be a part of India or Pakistan; but the people of Kashmir had never been allowed to exercise their right to self-determination. On 7 December, the General Assembly had decided, by an overwhelming and massive vote of 104 in favour on an international referendum, that Pakistan was one and must remain one. Pakistan had no diplomatic relations with some of the countries that had voted for maintaining the integrity of Pakistan as a matter of principle. If Pakistan were dismembered, the germs of dismemberment would spread. Concluding his statement the representative of Pakistan said that his country should be given the chance to decide on its own affairs, its own social system and its own evolution without interference from outside.⁶⁴⁷

The President (Sierra Leone) stated that since there was a need for further consultations to be held both among the representatives and their respective Governments and among the representatives themselves with regard to the matter under consideration, he would, in the absence of an objection, consider suspended the discussion on the item on the agenda.⁶⁴⁸ After a procedural debate⁶⁴⁹ in which the representatives of China, France, Somalia, the USSR and the United States participated, the meeting was adjourned.

At the 1613th meeting on 13 December 1971, the representative of the USSR raised a point of order and proposed again⁶⁵⁰ that representatives of Bangladesh be heard by the Council in accordance with rule 39 of the provisional rules of procedure. After a procedural discussion on participation⁶⁵¹ in which the President of the Council (Sierra Leone) and the representatives of Argentina, China, India,* Pakistan,* Poland and the USSR participated, the President (Sierra Leone), invoking rule 30 of the Council's provisional rules of procedure, gave the ruling⁶⁵² that, he could not admit to the presence in the Security Council of any representatives from a State which, in his view, had not yet

⁶⁴⁴ 1611 th meeting, paras. 15-31.

⁶⁴⁵ S/10446/Rev.1, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 107. The original draft resolution S/10446 contained a paragraph calling upon the Government of India forthwith to accept a cease-tie and withdrawal of armed forces as set forth in General Assembly resolution 2793 (XXVI) (S/ 10446, *ibid.*, pp. 106407). This paragraph was deleted in the revised text.

⁶⁴⁶ 161 lth meeting, paras. 33-135.

⁶⁴⁷ *Ibid.*, paras. 141-243.

⁶⁴⁸ *Ibid.*, paras. 244-246.

⁶⁴⁹ For the discussion of this question see chapter I, Case 42.

⁶⁵⁰ For the earlier proposal, see foot-note 585 above.

⁶⁵¹ For discussion of this question see chapter III, part 1. See also foot-note 587 above.

⁶⁵² 1613th meeting, paras. 90-94.

satisfied the necessary criteria for recognition. He noted, at the same time, that his ruling did not mean that, if individuals who were concerned in the matter before the Council wished to be heard, they could not be heard in accordance with the provisions of rule 39.

The representative of the USSR raised the question of inviting Justice Abu Sayud Chowdbury, mentioned by the representative of India in his letter to the President of the Security Council,⁶⁵³ as a person competent to assist the Council in coming to a decision on the matter before it.⁶⁵⁴

The President (Sierra Leone), having noted that he considered the USSR proposal as a point of order, proposed to put it to the vote.⁶⁵⁵ The representative of the USSR stated that he did not insist on a vote,⁶⁵⁶ and the President considered the proposal withdrawn.⁶⁵⁷

Subsequently, the representative of the United States pointed out that a suggestion by the Government of Japan for a change⁶⁵⁸ in the United States draft resolution before the Council (S/10446) had been accepted and the text was revised accordingly.⁶⁵⁹

At the same meeting the United States' revised draft resolution was put to the vote. It received 11 votes in favour, 2 against with 2 abstentions and it was not adopted owing to the negative vote of one of the permanent members of the Council.⁶⁶⁰

Thereafter, the representative of Italy introduced⁶⁶¹ a draft resolution,⁶⁶² co-sponsored by Italy and Japan, under the terms of which the Security Council would, *inter alia*: call upon all Member States to refrain from any action or threat of action likely to worsen the situation in the Indo-Pakistan subcontinent or to endanger international peace; call upon all parties concerned, to take forthwith, as a first step, all measures to bring about an immediate cease-fire and cessation of all hostilities; urge India and Pakistan both to carry on operations of disengagement and withdrawal; call for immediate steps aimed at achieving a comprehensive political settlement; call for the full co-operation of all States with the Secretary-General in rendering assistance to and relieving the distress of the East Pakistan refugees; call upon all parties concerned to take all possible measures and precautions to safeguard the lives and well-being of the civilian population in the area and to ensure the full observation of all the Geneva Conventions; decide to appoint, with the consent of India and Pakistan, a committee composed of three members of the Security Council to assist them in their efforts to bring about normalcy in the area of conflict and to achieve reconciliation; request the Secretary-General to keep the Security Council currently informed on the implementation of this resolution; and, decide to remain seized of the matter.

At the 1614th meeting on 14 December 1971, the representative of Somalia suggested that the question under discussion should be entitled as follows on the

agenda of the Security Council: "The situation in the India/Pakistan sub-continent".⁶⁶³ In the absence of further suggestions or comments, the President (Sierra Leone) considered the suggestion by Somalia as accepted.⁶⁶⁴

At the same meeting, the representative of the United Kingdom made a formal motion under rule 33, that the meeting be suspended for the purpose of consultations.⁶⁶⁵ After a procedural debate, the United Kingdom proposal was voted upon and adopted by 11 votes in favour, none against, with 4 abstentions.⁶⁶⁶

At its 1615th meeting on 15 December 1971, the Security Council had before it a draft resolution⁶⁶⁷ submitted by the representative of Poland,⁶⁶⁸ under the terms of the revised text⁶⁶⁹ of which the Security Council would have decided that: (a) in the eastern theatre of conflict, the power would be peacefully transferred to the representatives of the people lawfully elected in December 1970; (b) immediately after the beginning of the process of power transfer, the military actions would be ceased and an initial cease-fire would start for a period of 72 hours; (c) after the immediate commencement of the initial period of cease-fire, the Pakistan armed forces would start withdrawal to the pre-set locations in the eastern theatre of conflict with a view to evacuation from the eastern theatre of conflict; (d) similarly, the entire West Pakistan, as well as the entire East Pakistan civilian personnel and other persons in West Pakistan willing to return home, would be given an opportunity to do so under the supervision of the United Nations, with the guarantee that nobody would be subjected to repressions; (e) as soon as within the period of seventy-two hours the withdrawal of the Pakistan troops and their concentration for that purpose would have started, the cease-fire would have become permanent. The Indian armed forces would be withdrawn from East Pakistan upon consultations with the newly established authorities organized as a result of the transfer of power; and, (f) recognizing the principle according to which territorial acquisitions made through the use of force would not be retained by either party to the conflict, the Governments of India and Pakistan would immediately begin negotiations with a view to the speediest implementation of this principle in the western theatre of military operations.

In view of the continuing consultations, the representative of Somalia made a motion, under rule 33 of the provisional rules of procedure, for a brief suspension.⁶⁷⁰ In the absence of objections, the meeting was suspended.⁶⁷¹

Upon resumption of the meeting, the representative of the Syrian Arab Republic read out⁶⁷² the text of a draft resolution⁶⁷³ by which the Security Council would have urged the Government of Pakistan to immediately

⁶⁵³ See foot-note 584 above.

⁶⁵⁴ 1613th meeting, paras. 113-114.

⁶⁵⁵ *Ibid.*, para. 122.

⁶⁵⁶ *Ibid.*, paras. 123, 125, 137.

⁶⁵⁷ *Ibid.*, para. 138.

⁶⁵⁸ See foot-note 645 above.

⁶⁵⁹ 1613th meeting, paras. 142-143.

⁶⁶⁰ *Ibid.*, para. 231.

⁶⁶¹ *Ibid.*, paras. 298-301, 305-307.

⁶⁶² S/10451, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 108.

Subsequently, the representative of Italy stated that the co-sponsors would not insist upon their draft resolution being considered (1617th meeting, para. 34).

⁶⁶³ 1614th meeting, para. 8.

⁶⁶⁴ *Ibid.*, para. 9.

⁶⁶⁵ *Ibid.*, para. 40.

⁶⁶⁶ *Ibid.*, para. 49. For discussion of this question see chapter I, Case 43.

⁶⁶⁷ S/10453, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 109.

⁶⁶⁸ 1615th meeting, paras. 62-67.

⁶⁶⁹ S/10453/Rev.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 110. Prior to the revision, paragraphs (a) and (e) had contained references to "the lawfully elected representatives of the people headed by Sheikh Mujibur Rahman".

⁶⁷⁰ 1615th meeting, paras. 104, 108.

⁶⁷¹ *Ibid.*, para. 109.

⁶⁷² *Ibid.*, paras. 110-112.

⁶⁷³ S/10456, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 111.

release all political prisoners to enable the elected representatives of East Pakistan to resume their mandate; decided an immediate cease-fire on all fronts and a disengagement of all those engaged in hostilities, including the withdrawal of the armed forces under the respective command of India and Pakistan to their own side of the border and the cease-fire line in Jammu and Kashmir; requested the Secretary-General to appoint a special representative with a view to supervising the above-mentioned operations, assisting the elected representatives of East Pakistan and the Government of Pakistan to reach a comprehensive settlement, establishing the conditions for the voluntary return of the refugees and normalizing the relations between India and Pakistan; and requested the Secretary-General to keep the Council informed of the implementation of this resolution.

Subsequently, the representative of the United Kingdom introduced⁶⁷⁴ a draft resolution⁶⁷⁵ jointly sponsored with the representative of France. Under its provisions, the Security Council would call upon the Governments of India and Pakistan to institute an immediate and durable cease-fire and cessation of all hostilities in all areas of conflict in the western theatre and in East Pakistan, to remain in effect until operations of disengagement leading to withdrawal had taken place in both theatres; call for the urgent conclusion of a comprehensive political settlement in accordance with the wishes of the people concerned; call upon all Member States to refrain from any action which might aggravate the situation; call upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949; call for full international assistance in the relief of suffering and the rehabilitation of refugees and their return to their homes; invite the Secretary-General to appoint a special representative to lend his good offices in particular for the solution of humanitarian problems; and request the Secretary-General to report to the Security Council on the implementation of this resolution.

Introducing the draft resolution, the representative of the United Kingdom stated 'that his delegation together with the delegation of France had been engaged in intensive negotiations in an effort to achieve a text of a resolution which could be agreed by the parties concerned, or, at least, which would not raise insuperable difficulties. Although there was not full agreement on the text that he had just introduced, he felt that the time had come to put before the Council the result of the efforts made and the position reached by the sponsors of the draft resolution. He hoped that further progress would be possible and noted that in so far as delegations might need time to reflect and ask for instructions, he was not asking the Council to take action on the draft resolution at the present time?'

The representative of the USSR also submitted⁶⁷⁷ a draft resolution⁶⁷⁸ by which the Security Council would call upon all countries concerned to take steps for bringing about immediate cease-fire and cessation of all hostilities on the eastern and western fronts; call for the simultaneous conclusion of a political settlement in accordance with the wishes of the people of East Pakistan; call upon all those concerned to take all

measures necessary to preserve human life and to observe the Geneva Conventions of 1949; request the Secretary-General to keep the Council informed of the implementation of this resolution; and decide to discuss the further measures to be taken in order to restore peace in the whole area.

At the 1616th meeting on 16 December 1971, the representative of India quoted a statement made by the Prime Minister of his country in which it was said that India had no territorial ambitions and that in view of the surrender of the Pakistani armed forces in Bangladesh, it was pointless to continue the existing conflict. Therefore Indian armed forces had been ordered to cease fire everywhere on the western front with effect from 17 December 1971. It was the Indian hope, the statement said, that there would be a corresponding immediate response from the Government of Pakistan.⁶⁷⁹

At the 1617th meeting on 16 December 1971, the representative of the USSR observed that in view of the statement made by the Government of India that it had taken the decision to cease-fire, the draft resolutions before the Council had no further sense. In the light of the new situation, he withdrew⁶⁸⁰ his delegation's draft resolution (S/10457) then before the Council and submitted⁶⁸¹ instead a new draft resolution⁶⁸² by the terms of which the Security Council would welcome the cessation of hostilities in East Pakistan and express the hope that the state of cease-fire would be observed by both sides which would guarantee unimpeded transfer of power to the lawful representatives of the people elected in December 1970, and appropriate settlement of problems related to the conflict in the area; call for immediate cease-fire and cessation of all other military actions along the entire border between India and West Pakistan and along the cease-fire line of 1965 in Jammu and Kashmir; welcome the statement of the Government of India to cease fire unilaterally and cease all military action in the area, and urgently call upon the Government of Pakistan to take identical decisions without delay; and call upon all Member States of the United Nations to render comprehensive assistance for the speediest cessation of military actions and to refrain from any steps which could impede normalization of the situation on the In&Pakistan subcontinent.

Upon resumption of the meeting after a brief suspension for further consultations,⁶⁸³ the representative of the United States submitted⁶⁸⁴ a draft resolution⁶⁸⁵ jointly sponsored with Japan, Under the terms of that draft resolution, the Security Council would have demanded that an immediate and durable cease-fire and cessation of all hostilities in all areas of conflict be strictly observed and remain in effect until operations of disengagement took place, leading to withdrawal of

⁶⁷⁹ 1616th meeting, para. 5.

⁶⁸⁰ 1617th meeting, para. 12.

⁶⁸¹ *Ibid.*, para. 7.

⁶⁸² S/10458, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, pp. 111-112.

⁶⁸³ 1617th meeting, paras. 11, 18.

⁶⁸⁴ *Ibid.*, paras. 14, 19.

⁶⁸⁵ S/10459/Rev.1, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, pp. 112-113. In the initial draft, the Security Council would have demanded that a durable cease-fire be observed and would have requested the Secretary-General to strengthen as appropriate the staff of the United Nations East Pakistan Relief Operation, headed by his special representative, in order to provide all possible assistance for the solution of humanitarian problems. See: S/10459, *ibid.*, p. 112, paras. 1 and 5.

⁶⁷⁴ 1615th meeting, para. 114.

⁶⁷⁵ S/10455, *yr., Suppl. for Oct.-Dec. 1971*, p. 110.

⁶⁷⁶ 1615th meeting, paras. 114-115.

⁶⁷⁷ *Ibid.*, paras. 125-127.

⁶⁷⁸ S/10457, *OR, 26th yr., Suppl. for Oct.-Dec. 1971*, p. 111.

the armed forces from all the occupied territories; called upon all Member States to refrain from any action which might aggravate the situation in the subcontinent or endanger international peace; called upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949; called for international assistance in the relief of suffering and the rehabilitation of refugees and their return to their homes and for full co-operation with the Secretary-General to that effect; invited the Secretary-General to appoint a special representative to lend his good offices in particular for the solution of humanitarian problems; requested the Secretary-General to keep the Council informed on the implementation of this resolution; and decided to continue to discuss the further measures to be taken in order to restore peace in the whole area.

At the 1621st meeting on 21 December 1971, the President (Sierra Leone) stated that whereas there had been a number of draft resolutions pending before the Council when it had adjourned for consultations, it had been possible, after intensive consultations with India and Pakistan, to reach agreement on a draft resolution⁶⁸⁶ sponsored by the representatives of Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia. The draft resolution, he noted, was factual and capable of commanding the support of all members of the Council. It was non-partisan and to a considerable extent represented a compromise of the multiplicity of draft resolutions that had been presented to the Council or discussed by the Council members during the last two weeks. It had been voided of all controversial aspects and took account of the realities of the existing situation.⁶⁸⁷

At the same meeting, the six-Power draft resolution was put to the vote and adopted⁶⁸⁸ by 13 votes in favour, none against and 2 abstentions. It read as follows: ⁶⁸⁹

“The Security Council,

“Having discussed the grave situation in the subcontinent, which remains a threat to international peace and security,

“Noting General Assembly resolution 2793 (XXVI) of 7 December 1971,

“Noting the reply of the Government of Pakistan on 9 December 1971,

“Noting the reply of the Government of India on 12 December 1971,

“Having heard the statements of the Deputy Prime Minister of Pakistan and the Foreign Minister of India,

“Noting further the statement made at the 1616th meeting of the Security Council by the Foreign Minister of India containing a unilateral declaration of a cease-fire in the western theatre,

“Noting Pakistan’s agreement to the cease-fire in

⁶⁸⁶ S/10465, adopted without change as Security Council resolution 307 (1971).

⁶⁸⁷ 1621st meeting, paras. 3-8. For the discussion of the statement made by the President of the Council, see chapter I, part III, Case 17.

⁶⁸⁸ 1621st meeting, para. 14.

⁶⁸⁹ Resolution 307 (1971).

the western theatre with effect from 17 December 1971,

“Noting that consequently a cease-fire and a cessation of hostilities prevail,

“1. Demands that a durable cease-fire and cessation of all hostilities in all areas of conflict be strictly observed and remain in effect until withdrawals take place, as soon as practicable, of all armed forces to their respective territories and to positions which fully respect the cease-fire line in Jammu and Kashmir supervised by the United Nations Military Observer Group in India and Pakistan;

“2. Calls upon all Member States to refrain from any action which may aggravate the situation in the subcontinent or endanger international peace;

“3. Calls upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949 and to apply in full their provisions as regards the protection of the wounded and sick, prisoners of war and civilian population;

“4. Calls for international assistance in the relief of suffering and the rehabilitation of refugees and their return in safety and dignity to their homes, and for full co-operation with the Secretary-General to that effect;

“5. Authorizes the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems;

“6. Requests the Secretary-General to keep the Council informed without delay on developments relating to the implementation of the present resolution;

“7. Decides to remain seized of the matter and to keep it under active consideration.”

After the vote, the representative of Somalia made a brief statement on behalf of the co-sponsors in explanation of certain aspects of the resolution. He pointed out that the context in which the co-sponsors wished the terms, i.e., withdrawals of all armed forces, contained in paragraph 1 to be interpreted were the following: In the eastern theatre, the resolution called for complete withdrawal of foreign armed forces as soon as practicable; in the western theatre, it called for the commencement of the process of disengagement leading without delay to withdrawal of the armed forces of both parties. In so far as the Government of India had declared that it had no territorial ambitions, it was the view of the co-sponsors that, in the implementation of the resolution, the parties involved could make any mutually acceptable arrangement or adjustment that they deemed necessary.⁶⁹⁰

In connexion with the interpretative statement made by the representative of Somalia on behalf of the co-sponsors, the representative of Pakistan held that the word “territories” in paragraph 1 of resolution 307 (1971) could not mean anything but the national territories as constituted when the State of Pakistan came into existence in 1947. The United Nations could not, in any situation involving two or more organized States, distinguish between territories except in the national sense. In no circumstances could the Organiza-

⁶⁹⁰ 1621st meeting, paras. 15-20.

tion violate the principle of the territorial integrity of Member States; consequently, it was precluded from according even implicit recognition to the result of any attempt, by aggression, subversion, or other use of force, to dismember Pakistan. Paragraph 1 could therefore mean nothing other than that the armed forces of India must withdraw from Pakistan to Indian territory, in both the East and West, and that the armed forces of Pakistan must withdraw from Indian territory. He emphasized that no legal distinction could be drawn between the withdrawals of Indian and Pakistan armed forces in the eastern theatre and those in the western theatre. If the wording of the interpretative statement with respect to the two theatres conveyed a sense of difference, it was only because in the eastern theatre there were no Pakistan forces on Indian territory but there were Indian forces on Pakistan territory, while in the western theatre forces of both sides were on each other's territory. In the eastern theatre withdrawals had to be one-sided and that meant that withdrawals would apply only to the Indian occupation forces while in the western theatre they had to be mutual.⁶⁹¹

The representative of India, on the other hand, contended, with reference to the eastern theatre, that Pakistan no longer had any right to keep any troops in Bangladesh, and any attempt by Pakistan to enter Bangladesh by force would create a threat to peace and security and could endanger peace and stability once again. As regards the western theatre, he stated that the international frontier between India and Pakistan was well defined. However, as a result of hostilities, certain areas of Pakistan were now under the control of Indian troops, and a much smaller area of India was under the control of Pakistani troops: India accepted the principle of withdrawals. He also noted that although the State of Jammu and Kashmir was an integral part of India, in order to avoid bloodshed and for preserving peace, India had respected the cease-fire line supervised by UNMOGIP. In the course of the present conflict, it had been crossed by troops of both sides. In order to avoid the repetition of such incidents, India proposed to discuss and settle with Pakistan certain necessary adjustments in the cease-fire line so that it would become more stable, rational and viable.⁶⁹²

Responding to the statement by the representative of India, the representative of Pakistan rejected the contention that Pakistan had no right to keep troops in so-called Bangladesh. He maintained that East Pakistan was an integral part of the territory of Pakistan, and the juridical status and the inalienable rights of the people of Pakistan could not be altered in any manner by an act of aggression and military occupation. The proclamation of the independence of a territory which was part of Pakistan in the capital of India had not been an act of self-determination of the people of East Pakistan but an act of dismemberment of a sovereign country by military aggression. He also maintained that the withdrawal of occupying armed forces could not be conditional upon negotiations. It was only after withdrawal that negotiations could take place which would lead to a settlement of a conflict. These negotiations did not, he added, require any recognition of any entity not accepted by the Government of Pakistan.⁶⁹³

QUESTION CONCERNING THE ISLANDS OF ABU MUSA, THE GREATER TUNB AND THE LESSER TUNB

INITIAL PROCEEDINGS

By letter⁶⁹⁴ dated 3 December 1971 addressed to the President of the Security Council, the representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen requested an urgent meeting of the Security Council to consider "the dangerous situation in the Arabian Gulf area arising from the occupation by the armed forces of Iran of the islands of Abu Musa, the Greater Tunb and the Lesser Tunb, on 30 November 1971".

By letter⁶⁹⁵ dated 7 December 1971, the representative of Iraq transmitted to the Secretary-General the text of a cable dated 30 November 1971 from the Ruler of Ras Al-Khaima in which the Ruler stated that Iranian troops had, that morning, invaded the two islands of Tunb which were an indivisible part of the territory of Ras Al-Khaima. Having charged Iran with aggression, the Ruler requested Iraq to take immediate and effective measures to repulse the aggression and to submit the matter to the Security Council, as well as the Council of the League of Arab States.

The question was considered by the Security Council at its 1610th meeting on 9 December 1971 and the representatives of Algeria, Iraq, the Libyan Arab Republic, the People's Democratic Republic of Yemen, Kuwait, Iran and the United Arab Emirates were invited to participate in the discussion.⁶⁹⁶

Decision of 9 December 1971 (1610th meeting):

Statement by the President

At the 1610th meeting on 9 December 1971, following the adoption⁶⁹⁷ of the agenda, without objection, the representative of Iraq* stated that the recent events in the Gulf had resulted in a tense and serious situation and a potential threat to the peace and security of the entire region. By the invasion of the two islands of Greater and Lesser Tunb which were an integral part of Ras Al-Khaima, and by partial occupation of the adjacent island of Abu Musa under the pretext of an alleged agreement with the Sheikh of Al-Sharjah of whose territory that island was a part, Iran had violated its international obligations under the Charter, in particular Article 2, paragraph 4, which recognized the inadmissibility of the acquisition of territory by the use of force. The representative of Iraq further maintained also that the invasion of the Tunb islands and the partial occupation of the island of Abu Musa was the latest step in a policy of territorial expansion by the Government of Iran. Referring to intermittent claims by Iranian rulers to certain areas and islands in the Gulf which had, for centuries, been under Arab jurisdiction, he maintained that these claims had, in recent years, been reduced in scope and had been concentrated on the three islands of Abu Musa and the Greater Tunb and the Lesser Tunb, particularly after the announcement in 1968 of the British Government's intentions to withdraw from the Gulf by the end of 1971.

The representative of Iraq charged further that the armed aggression by Iran, in contravention of Article

⁶⁹¹ 1621st meeting, paras. 106, 111-112.

⁶⁹² *Ibid.*, paras. 129-131.

⁶⁹³ *Ibid.*, paras. 145-146.

⁶⁹⁴ S/10409, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 79.

⁶⁹⁵ S/10434, *ibid.*, pp. 101-102.

⁶⁹⁶ 1610th meeting, paras. 44-52.

⁶⁹⁷ *Ibid.*, preceding para. 44.