

In the absence of any other request to speak, the President adjourned the debate, saying that the Security Council would remain seized of the question so that it might resume consideration of it at any appropriate time.¹⁰²⁶

THE SITUATION IN THE COMOROS

Decision of 6 February 1976 (1888th meeting): rejection of 5-Power draft resolution

In a telegram¹⁰²⁷ dated 28 January 1976, the Head of State of the Comoros informed the President of the Security Council that the French Government intended to organize a referendum in the island of Mayotte on 8 February 1976. He pointed out that Mayotte was an integral part of Comorian territory under French laws and that on 12 November 1975, the United Nations had admitted the Comorian State consisting of the four islands of Anjouan, Mayotte, Mohéli and Grande-Comore. In view of the flagrant aggression by France, he requested an urgent meeting of the Security Council to maintain peace in the archipelago and to safeguard the integrity of the country.

By letter¹⁰²⁸ dated 3 February 1976, the representative of Guinea-Bissau, on behalf of the African Group, asked the President of the Security Council to make the necessary arrangements for convening a meeting of the Council not later than Wednesday, 4 February 1976.

By letter¹⁰²⁹ dated 4 February 1976, the representative of Uganda transmitted a message from the President of the Republic of Uganda, then Chairman of the Organization of African Unity (OAU), in which the Comorian position was fully endorsed.

At the 1886th meeting on 4 February 1976, the Council included the question in its agenda and considered the issue at its 1886th to 1888th meetings between 4 and 6 February 1976. During its deliberations, the representatives of Algeria, Comoros, Equatorial Guinea, Guinea, Guinea-Bissau, Kenya, Madagascar, Nigeria, Saudi Arabia and Somalia were invited, at their request, to participate in the discussion without the right to vote.¹⁰³⁰

At the 1886th meeting, the representative of the Comoros said that his Government's position was clearly expressed in the telegram of 28 January¹⁰³¹ and the head of his delegation would provide the additional information necessary on the issue upon his arrival.¹⁰³²

¹⁰²⁶ *Ibid.*, para. 37.

¹⁰²⁷ S/11953, *OR, 31st yr., Suppl. for Jan-March 1976*, p. 80. At the end of the 1885th meeting on 30 January 1976, following the discussion of the situation in Namibia, the President read out the text of the telegram and announced that in accordance with the usual practice, he and his successor in the Presidency would approach members of the Council in order to determine what further steps should be taken with regard to the request. A procedural discussion ensued in which the representative of the Libyan Arab Republic tried to address the urgency of the Comorian request and the representative of France, supported by the President, insisted that the question of the Comoros was not on the agenda and that any discussion of the issue would have to wait until the Council agreed to put the item on its agenda. The President reiterated his assurance that he would take action on the matter as soon as possible (1885th mtg., paras. 125-142.)

¹⁰²⁸ S/11959, *ibid.*, p. 83.

¹⁰²⁹ S/11960, *ibid.*, p. 83.

¹⁰³⁰ For details, see Chapter III.

¹⁰³¹ S/11953, *OR, 31st yr., Suppl. for Jan-March 1976*, p. 80.

¹⁰³² 1886th mtg., paras. 8-9.

At the same meeting, the representative of France reviewed the background of the matter and stated that in December 1974, the French Government had organized a consultation of the Comorian population which resulted in a large majority in favour of independence. However, two thirds of the votes in the island of Mayotte were negative. The French parliament adopted on 30 June 1975 a law providing for the drafting of a constitution preserving the political and administrative identity of the islands. Although only the French parliament could decide to transfer sovereignty, the Chamber of Deputies of the Comoros proclaimed the independence of the islands on 5 July 1975.

On 31 December, the French Government recognized the independence of the islands of Grande-Comore, Anjouan, and Mohéli but provided for the people of Mayotte to make a choice between the island remaining in the French Republic and being integrated in the new Comorian State.

The question of the referendum thus resulted from the scrupulous application of the principle of self-determination and France had the duty to furnish the inhabitants of Mayotte the means of making an impartial choice.¹⁰³³

The representative of Guinea-Bissau, speaking also in the name of the OAU, said it was France's moral duty to help the Comorians forge a nation and to preserve the groups of the four islands as a united republic. The Government of Guinea-Bissau and the OAU always did stand for the principle of self-determination and regarded the case of Mayotte as one of political manipulation of local parties by the French Government in order to preserve some degree of influence in the area.¹⁰³⁴

At the 1887th meeting, the representative of the Comoros stated that his Government would never accept a division of whatever nature of its new state. The unity of the islands was an undeniable fact accepted by the French themselves. He affirmed that several French texts and laws showed the political and administrative unity of the archipelago since the time of colonization and the law on the basis of which the referendum on independence held in December 1974 stipulated that the latter would be held on a global basis and not for each island in isolation. France, perplexed by the result of the referendum, took Mayotte as an excuse for extending colonialism and interfering in the internal affairs of the Comoros by taking administrative, military and other measures.¹⁰³⁵

The representative of Panama stated that the Security Council and the General Assembly had accepted for membership the State of the Comoros as comprising the four islands. To question the territorial integrity of the new State would be contrary to the purposes and principles of the Charter and the Declaration of the Granting of Independence to Colonial Countries and Peoples.¹⁰³⁶

¹⁰³³ *Ibid.*, paras. 11-31.

¹⁰³⁴ *Ibid.*, paras. 35-46.

¹⁰³⁵ 1887th mtg., paras. 5-27.

¹⁰³⁶ *Ibid.*, paras. 30-39.

At the 1888th meeting, the representative of the United Republic of Tanzania introduced a draft resolution¹⁰³⁷ co-sponsored by Benin, Guyana, the Libyan Arab Republic and Panama. He declared that the draft resolution avoided any condemnation and asked for the respect of the principles of the Charter, which were the best safeguard for small countries like the Comoros. He also stated that since in Article 25 of the Charter Member States agreed to be bound by the decisions of the Council, it would be only fair that the Security Council, acting on behalf of the international community, would take into account the views of the Member States.¹⁰³⁸

At the same meeting the Chinese representative recognized the independence of the Comoros as a great victory in the struggle against imperialism and colonialism and reaffirmed the inalienable right of the new State to maintain its unity and territorial integrity.¹⁰³⁹

The representative of the USSR declared that the decision of the United Nations had come to constitute the international legal basis for recognition of the Comorian State and its territorial integrity and reaffirmed his country's solidarity with the struggle of the colonial people for their freedom and independence.¹⁰⁴⁰

The representative of the United Kingdom stated his understanding of both the position of the Comoros, according to which its former colonial boundaries should have been retained after independence, and of the constitutional imperatives with which the French Government was confronted. The United Kingdom Government hoped that the issue could be settled by continuing negotiations.¹⁰⁴¹

The Japanese representative suggested the resumption of talks between the two Governments and proposed the suspension of the referendum by France, pending the outcome of the talks.¹⁰⁴²

At the same meeting the Council proceeded to the vote on the draft resolution¹⁰⁴³ sponsored by Benin, Guyana, Libyan Arab Republic, Panama and the United Republic of Tanzania. By its preambular paragraphs the resolution would have recalled General Assembly resolutions 3291 (XXIX) and 3385 (XXX) reaffirming the unity and territorial integrity of the Comoro archipelago. By its operative paragraphs the resolution would have considered that the holding of the referendum by France in Mayotte constituted an interference in the internal affairs of the Comoros and called upon France to desist from the holding of the referendum and to refrain from any action which could have jeopardized the independence and sovereignty of the Comorian State; the resolution would have further requested the Government of France to enter into immediate negotiations with the Government of the Comoros for the purpose of taking appropriate measures

to safeguard the unity and territorial integrity of the State of the Comoros composed of the islands of Anjouan, Grande-Comoro, Mayotte and Mohéli.

The draft resolution received 11 votes in favour, 1 against and 3 abstentions and was not adopted owing to the negative vote of a permanent member of the Council.¹⁰⁴⁴

Following the vote, the representative of France stated that his negative vote showed that France was confronted with a real problem and did not exclude the undertaking of negotiations with the Comoros.¹⁰⁴⁵

The representative of Benin regretted that the draft resolution was not adopted, and wondered whether France, as a party to the dispute, was entitled to participate in the vote.¹⁰⁴⁶

The representative of the Libyan Arab Republic expressed its sincere doubts and reservations in connection with the result of the voting. In his view, in accordance with Article 27, paragraph 3, of the Charter, France was not entitled to cast a positive or negative vote since France was a party to the dispute.¹⁰⁴⁷

The representative of France, in response to the comments made by the Libyan representative, recalled that in Panama in March 1973, in a matter which brought Panama into direct conflict with the United States, no one found it exceptional that Panama, which held the presidency, should have voted and that the United States also voted and exercised its right of veto. He stressed that for 25 years the Council had always felt that in a situation like the present, one should not prevent States members of the Council or States directly or indirectly concerned in the matter from casting their vote, as they would undoubtedly exercise their vote if this matter was considered in the context of Chapter VII of the Charter, under which the right to vote was not challenged. He could have provided a list of precedents in which, analogous to the case under consideration, delegations did not hesitate to use their right of veto and where this right was not challenged by anyone.¹⁰⁴⁸

The representative of Benin said he was not challenging the veto which had been cast, but he was raising a question so that members of the Council could give some thought to a particular category of cases in the future.¹⁰⁴⁹

In response to France's intervention the representative of Panama said the reason for the Council's visit to his country was not to consider a dispute between Panama and the United States but to hold a series of special meetings on the matters relating to the maintenance and strengthening of peace in Latin America. The question under consideration was not a similar situation. The Council had before it a matter relating to the peaceful settlement of disputes and in conformity with paragraph

¹⁰³⁷ S/11967, OR, 31st yr., Suppl. for Jan.-March 1976, p. 85

¹⁰³⁸ 1888th mtg., paras. 18-34

¹⁰³⁹ *Ibid.*, paras. 35-37

¹⁰⁴⁰ *Ibid.*, paras. 59-72

¹⁰⁴¹ *Ibid.*, paras. 92-99

¹⁰⁴² *Ibid.*, paras. 103-108

¹⁰⁴³ S/11967, OR, 31st yr., Suppl. for Jan.-March 1976, p. 85

¹⁰⁴⁴ 1888th mtg., para. 247

¹⁰⁴⁵ *Ibid.*, paras. 249-263

¹⁰⁴⁶ *Ibid.*, paras. 265-267

¹⁰⁴⁷ *Ibid.*, para. 269

¹⁰⁴⁸ *Ibid.*, paras. 270-273

¹⁰⁴⁹ *Ibid.*, paras. 274-275

3 of Article 27 of the Charter "... in decision under Chapter VI, ... a party to a dispute shall abstain from voting". It was thus doubtful whether the representative of France in this case was entitled to cast a veto. He invited the Council to carry out a detailed legal study on this matter.¹⁰⁵⁰

The President said that since before the vote there might have been a challenge to the right of France to vote, the Secretariat was consulted and a position was developed and made available. Had the question of the right of France to vote been raised before the vote he believed that its right would have been sustained.¹⁰⁵¹

The representative of the Libyan Arab Republic stated that his colleagues from Benin and Panama and he himself wished to register their reservations and had not asked for a ruling or for a statement by the President; therefore, they did not consider his last statement as a ruling on the problem.¹⁰⁵²

The President confirmed that his statement was not a ruling but a point of information in case Council members wanted to know in what way the Secretariat advised the presidency in this matter.¹⁰⁵³

The representative of the United Republic of Tanzania said his delegation took a very serious view of the observations made by Benin, Libya and Panama. The issues involved dealt with an extremely important facet of the Organization's performance, involving juridical consideration. He considered the President's statement as a personal belief of the representative of the United States, since the Council did not ask for a ruling and believed that the Secretariat could not and should not give legal advice unless specifically asked on this matter by the Security Council.¹⁰⁵⁴

At the conclusion of the 1888th meeting, the representative of the Comoros expressed deep regret over the negative vote cast by France but welcomed the vindication by the other members of the Security Council of the legitimate demand of his Government for faithful respect for the sovereignty, independence and territorial integrity of the Comoros. He hoped that the French Government would heed the wishes of the international community on this issue.¹⁰⁵⁵

COMMUNICATIONS FROM FRANCE AND SOMALIA CONCERNING THE INCIDENT OF 4 FEBRUARY 1976

INITIAL PROCEEDINGS

In a letter¹⁰⁵⁶ dated 4 February 1976 addressed to the President of the Security Council, the representative of France requested an urgent meeting of the Council to consider the serious incident that had occurred on 4 February at Loyada, a post situated on the frontier

between Somalia and the French Territory of the Afars and the Issas, in which French forces were fired on by heavy weapons from Somalia and were obliged to react.

By note¹⁰⁵⁷ dated 5 February 1976 the representative of Somalia transmitted a telegram dated 26 January 1976 and addressed to the Secretary-General by the President of the Supreme Revolutionary Council of the Somali Democratic Republic, drawing attention to the critical situation in French Somaliland and its implication for the stability and peace of the region. The President appealed to the Secretary-General to intervene in order to assist the people of that territory to attain unconditional independence.

In a further letter¹⁰⁵⁸ dated 5 February addressed to the President of the Security Council, the representative of Somalia requested an urgent meeting of the Security Council to consider France's attack on 4 February on the border town of Loyada in Somalia.

By letter¹⁰⁵⁹ dated 10 February 1976 addressed to the President of the Security Council, the representative of Somalia furnished a list of the Somali casualties suffered in the incident of 4 February.

In a letter¹⁰⁶⁰ dated 11 February 1976 addressed to the President of the Security Council, the representative of France rejected Somalia's allegations and gave a detailed account of the incident.

By letter¹⁰⁶¹ dated 13 February 1976 the representative of Somalia requested a postponement of the Security Council's meeting.

By letter¹⁰⁶² dated 18 February 1976 addressed to the President of the Security Council, the representative of Somalia requested an urgent meeting of the Security Council to consider its complaint against France's aggression.

The Security Council considered the matter at its 1889th meeting held on 18 February 1976. After the adoption of the agenda¹⁰⁶³ the representatives of Ethiopia and Somalia were invited, at their request, to participate in the discussion without the right to vote.¹⁰⁶⁴

The representative of France referred to his previous communication containing the request for the Security Council meeting¹⁰⁶⁵ and indicated that since the incident had not led to any immediate consequences, and since the situation in the area had returned to normal, he felt that it was not necessary for the Council to convene immediately. He then rejected the charges of aggression and presented a detailed account of the incident. He said that France deeply regretted any loss among Somali civilians during the brief encounter between French forces and the accomplices of the terrorists stationed on Somali territory. France wanted relations

¹⁰⁵⁰ *Ibid.*, paras 276-280

¹⁰⁵¹ *Ibid.*, paras 292-293

¹⁰⁵² *Ibid.*, para 294

¹⁰⁵³ *Ibid.*, para 295

¹⁰⁵⁴ *Ibid.*, paras 300-308

¹⁰⁵⁵ *Ibid.*, paras 320-325

¹⁰⁵⁶ S/11961, *OR, 31st yr., Supp. for Jan.-March 1976*, p. 84

¹⁰⁵⁷ S/11965, *ibid.*

¹⁰⁵⁸ S/11969, *ibid.*, pp. 85-86

¹⁰⁵⁹ S/11974, *ibid.*, p. 91

¹⁰⁶⁰ S/11977 and Add 1 and Corr. 1, *ibid.*, pp. 94-96

¹⁰⁶¹ S/11979, *ibid.*, p. 98

¹⁰⁶² S/11987, *ibid.*, p. 103

¹⁰⁶³ 1889th mtg., preceding para. 1

¹⁰⁶⁴ For details, see chapter III

¹⁰⁶⁵ See footnote 1056