

At the same meeting, the representative of Yugoslavia submitted a draft resolution<sup>169</sup> according to which the Security Council would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations.

The representative of the United Kingdom contended that the Yugoslav draft resolution was not in order and asked for a vote on his contention.<sup>170</sup>

The motion was rejected by 6 votes in favour and 1 against, with 1 abstention.<sup>171</sup>

At the same meeting, the draft resolution submitted by the representative of Yugoslavia was adopted by 7 votes in favour and 2 against, with 2 abstentions.<sup>172</sup>

The resolution<sup>173</sup> read:

*"The Security Council,*

*"Considering that a grave situation has been created by action undertaken against Egypt,*

*"Taking into account that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,*

*"Decides to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."*

The representative of the United Kingdom and the President, as the representative of France, reserved the positions of their Governments concerning the legality of the resolution.<sup>174</sup>

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

#### THE INDIA-PAKISTAN QUESTION

By letter<sup>175</sup> dated 2 January 1957 to the President of the Security Council, the Minister for Foreign Affairs of Pakistan stated that India had refused, on one pretext or another, to honour the international commitments which it had accepted under the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1958 and 5 January 1949. The statements of the Prime Minister of India and the steps taken by the so-called Constituent Assembly of Jammu and Kashmir in collusion with the Government of India in

regard to the disposition of the State of Jammu and Kashmir had further forced Pakistan to the conclusion that continuance of direct negotiations between the two Governments held no prospect of settling the dispute, and had created an explosive situation which constituted a serious threat to peace in the area. It was most essential that early action should be taken to implement the two resolutions of the United Nations Commission for India and Pakistan which constituted an international agreement between India and Pakistan that the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided by means of a free and impartial plebiscite under United Nations auspices. The Minister for Foreign Affairs of Pakistan therefore requested the President of the Security Council to call an early meeting of the Security Council.

The question was considered by the Security Council at the 761st to 774th meetings held between 16 January and 21 February 1957, at the 791st meeting on 24 September 1957, and at the 795th to 805th, 807th and 808th meetings held between 9 October and 2 December 1957. The representatives of India and Pakistan were invited to take part in the discussion.

At the 761st meeting on 16 January 1957, the representative of Pakistan\* stated that "all the processes for peaceful settlement" of the dispute laid down in Article 33 of the United Nations Charter had been exhausted. In view of this situation, the representative of Pakistan requested the Security Council: (1) to call upon India to refrain from accepting the change envisaged by the new constitution adopted by the so-called Constituent Assembly of Srinagar; (2) under Article 37(2) of the Charter,<sup>176</sup> to spell out the obligations of the parties, under the terms of "the international agreement for a plebiscite as embodied in the United Nations resolutions". The representative of Pakistan suggested further that the Security Council should: (1) call upon the parties to withdraw all their troops from the State and also ensure that the local forces which remained behind should be placed under the representative of the Security Council and suitably reduced, if not disbanded altogether; (2) entrust to a United Nations force, which should be introduced into the area at once, the functions of protecting the State and ensuring internal security;<sup>177</sup> (3) disband all other forces, Indian, Pakistani and local, and remove all non-Kashmiri nationals, even in the police force, from Kashmir; (4) fix an early and firm date for the induction into office of the Plebiscite Administrator.<sup>178</sup>

At the 762nd meeting on 23 January 1957, the representative of India\* stated that the question which his Government had brought before the Security Council

<sup>169</sup> S/3719, 751st meeting: para. 71. For consideration of this draft resolution, see chapter VI, part I, Case 2.

<sup>170</sup> 751st meeting: para. 126. See also chapter I, part V, Case 22.

<sup>171</sup> 751st meeting: para. 127.

<sup>172</sup> 751st meeting: para. 147.

<sup>173</sup> S/3721, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 116-117.

<sup>174</sup> 751st meeting: paras. 150-151.

<sup>175</sup> S/3767, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 1-3.

<sup>176</sup> For discussion of the character of the decisions of the Security Council under Chapter VI of the Charter, see chapter X, part IV, Case 9.

<sup>177</sup> 761st meeting: para. 112.

<sup>178</sup> For consideration of the proposal for the use of a United Nations force in connexion with the Security Council's decisions under Chapter VI of the Charter, see chapter X, part IV, Case 10.

by its letter<sup>179</sup> of 1 January 1948 was a situation involving an act of aggression<sup>180</sup> against India and not a dispute; this question was still pending before the Security Council<sup>181</sup> and called for immediate action by the Security Council for avoiding a breach of international peace. Moreover, part II of the resolution of the Commission for India and Pakistan of 13 August 1948 relating to truce arrangements had not been carried out by Pakistan and part III relating to the holding of a plebiscite had therefore never come into force. The resolution of the Commission for India and Pakistan of 5 January 1949 which had been accepted by India concerned the implementation of part III of the earlier resolution and like that part and for the same reasons had never come into force. The Indian Government, which had accepted the resolution of the Commission for India and Pakistan on conditions concurred in by the Commission, was bound by resolutions of the Security Council only to the extent that they flowed from the Commission's resolutions and no further. The acts of the Constituent Assembly of the State of Jammu and Kashmir were municipal and not international acts and, therefore, no concern of the Security Council. The act of accession of Jammu and Kashmir to India was an international act, the legality of which, however, was beyond challenge and not in question and which involved no issue of international peace and security. The only issue of the latter kind was the aggression committed by Pakistan.

*Decision of 24 January 1957 (765th meeting): Reminding the Governments and authorities concerned of the principle embodied in certain resolutions and re-affirming the affirmation in the resolution of 30 March 1951*

At the 764th meeting on 24 January 1957, the Security Council had before it a joint draft resolution<sup>182</sup> submitted by the representatives of Australia, Colombia, Cuba, the United Kingdom and the United States.

At the 765th meeting on 24 January 1957, the joint draft resolution was adopted by 10 votes in favour and none against, with 1 abstention.<sup>183</sup>

The resolution<sup>184</sup> read:

*"The Security Council,*

*"Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir,*

*"Reminding the Governments and authorities concerned of the principle embodied in its resolutions of 21 April 1948, 3 June 1948, 14 March 1950 and*

30 March 1951, and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

*"1. Reaffirms the affirmation in its resolution of 30 March 1951 and declares that the convening of a Constituent Assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principle.*

*"2. Decides to continue its consideration of the dispute."*

*Decision of 20 February 1957 (773rd meeting): Rejection of the joint draft resolution submitted by the representatives of Australia, Cuba, the United Kingdom and the United States*

At the 768th meeting on 15 January 1957, the representative of the United Kingdom introduced a draft resolution<sup>185</sup> jointly with the representatives of Australia, Cuba and the United States. In the joint draft resolution it was provided that the Security Council would: (1) request the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals which, in his opinion, were likely to contribute to the achievement of demilitarization or to the establishment of other conditions for progress toward the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan, and bearing in mind the statements of the representatives of the Governments of India and Pakistan and the proposal for the use of a temporary United Nations force; (2) authorize him to visit the subcontinent for this purpose; (3) request him to report to the Security Council as soon as possible but not later than 15 April 1957; (4) invite the Governments of India and Pakistan to co-operate with him in the performance of these functions; (5) request the Secretary-General and the United Nations representative for India and Pakistan to render such assistance to him as he might request.

At the 770th meeting on 18 February 1957, the representative of the USSR submitted amendments<sup>186</sup> to the joint draft resolution to: (1) replace the preamble by a different text; (2) amend paragraph 1 of the operative part to provide that the Security Council would request the President of the Council, the representative of Sweden, to examine with the Governments

<sup>179</sup> S/1100, *Annex 28, O.R., Suppl. for Nov. 1948*, p. 139.

<sup>180</sup> For the question whether the Security Council has considered the item before it as a "dispute" or a "situation", see chapter X, part II, Case 5.

<sup>181</sup> 762nd meeting: para. 11.

<sup>182</sup> S/3778.

<sup>183</sup> 765th meeting: para. 150.

<sup>184</sup> S/3779, *O.R., 12th year, Suppl. for Jan.-Mar. 1957*, p. 4.

<sup>185</sup> S/3787, *O.R., 12th year, Suppl. for Jan.-Mar. 1957*, pp. 7-8.

<sup>186</sup> S/3789, *O.R., 12th year, Suppl. for Jan.-Mar. 1957*, p. 8.

of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that could be made towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan; and (3) delete in paragraph 3 of the operative part the words "but not later than 15 April 1957".

At the 771st meeting on 18 February 1957, the representative of Colombia submitted an amendment<sup>187</sup> to the joint draft resolution to: (1) replace the preamble by a different text; (2) amend paragraph 1 of the operative part to provide that the Security Council would request the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals, which, in his opinion, were likely to contribute to the achievement of the provisions contemplated in the resolutions of 13 August 1948 and 5 January 1949, of the United Nations Commission for India and Pakistan, or to the establishment of other conditions for progress towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan, the proposal for the use of a temporary United Nations force, if accepted by the parties, or the possibility to refer the problem to the International Court of Justice; and (3) replace in paragraph 3 of the operative part the last words by the following: "if possible not later than 15 April 1957".

At the 773rd meeting on 20 February 1957, the Security Council voted on the USSR amendment, the Colombian amendment and the joint draft resolution.

The USSR amendment was rejected by 1 vote in favour and 2 against, with 8 abstentions.<sup>188</sup> The Colombian amendment was rejected by 1 vote in favour and none against, with 10 abstentions.<sup>189</sup> The joint draft resolution was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>190</sup>

*Decision of 21 February 1957 (774th meeting):*  
*Requesting the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals likely to contribute to the settlement of the dispute*

At the 773rd meeting on 20 February 1957, the representative of the United States, jointly with the representatives of Australia and the United Kingdom, submitted a draft resolution<sup>191</sup> which, at the 774th meeting on 21 February 1957, was adopted by 10 votes in favour and none against, with 1 abstention.<sup>192</sup> Before adoption of the resolution, the representative of India observed that his Government felt engaged by only

those resolutions of the Security Council under Chapter VI of the Charter which it had accepted. However, the President of the Security Council would always be welcome in India.

The resolution<sup>193</sup> read:

*"The Security Council,*

*"Recalling its resolution of 24 January 1957, its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,*

*"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan; to visit the sub-continent for this purpose; and to report to the Security Council not later than 15 April 1957;*

*"2. Invites the Governments of India and Pakistan to co-operate with him in the performance of these functions; and*

*"3. Requests the Secretary-General and the United Nations Representative for India and Pakistan to render such assistance as he may request."*

On 29 April 1957, the representative of Sweden submitted to the Security Council the report<sup>194</sup> he had prepared in pursuance of the resolution of the Security Council of 21 February 1957, in which he stated that he had inquired of the two Governments whether they would be prepared to submit to arbitration the question of whether part 1 of the resolution of 13 August 1948 had been implemented. The Government of Pakistan had fallen in with the suggestion in principle. The Government of India felt that the issues in dispute were not suitable for arbitration.

*"While I feel unable to report to the Council any concrete proposals which, in my opinion, at this time are likely to contribute towards a settlement of the dispute, as I was requested to do under the terms of reference of the Council's resolution of 21 February 1957 (S/3793), my examination of the situation as it obtains at present would indicate that, despite the present deadlock, both parties are still desirous of finding a solution to the problem. In this connexion the Council may wish to take note of expressions of sincere willingness to co-operate with the United Nations in the finding of a peaceful solution, which I received from both Governments."*

*Decision of 2 December 1957 (808th meeting):*  
*Requesting the United Nations Representative of India and Pakistan to make any recommendations to the parties for further appropriate action with a view to*

<sup>187</sup> S/3791/Rev.1, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 8-9.

<sup>188</sup> 773rd meeting: para. 124.

<sup>189</sup> 773rd meeting: para. 125.

<sup>190</sup> 773rd meeting: para. 126.

<sup>191</sup> S/3792 and Corr.1, 773rd meeting: para. 130.

<sup>192</sup> 774th meeting: para. 79.

<sup>193</sup> S/3793, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 9.

<sup>194</sup> S/3821, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 12-16.

*making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement*

At the 791st meeting on 24 September 1957, the Council, at the request of Pakistan, resumed consideration of the question on the basis of the report submitted by the representative of Sweden under the Security Council resolution of 21 February 1957.<sup>195</sup> Consideration of the question continued at the 795th to 805th meetings from 9 October to 21 November 1957, and at the 807th and 808th meetings on 28 November and 2 December 1957, respectively.

At the 797th meeting on 25 October 1957, the representatives of the United Kingdom and the United States urged that the Security Council call upon the United Nations Representative for India and Pakistan to consult again with the parties in order to bring about progress toward full implementation of the resolutions adopted by the Commission for India and Pakistan.

At the 803rd meeting on 18 November 1957, the Council had before it a joint draft resolution<sup>196</sup> submitted by the representatives of Australia, Colombia, the Philippines, the United Kingdom and the United States to request the United Nations Representative for India and Pakistan to make any recommendations to the parties for further action which he considered desirable in connexion with Part I of the United Nations Commission for India and Pakistan resolution of 13 August 1948, and to enter into negotiations with the Governments of India and Pakistan in order to implement Part II of the same resolution, and in particular to reach agreement on a reduction of forces on each side of the cease-fire line to a specified number arrived at on the basis of the relevant Security Council resolutions.

At the 807th meeting on 28 November 1957, the representative of Sweden submitted an amendment<sup>197</sup> to the fourth paragraph of the preamble, and an amendment to the second paragraph of the operative part of the joint draft resolution before the Council.

At the 808th meeting on 2 December 1957, the amendments submitted by the representative of Sweden were adopted by 10 votes in favour and none against, with 1 abstention.<sup>198</sup> The joint draft resolution, as amended, was adopted by 10 votes in favour and none against, with 1 abstention.<sup>199</sup>

The resolution<sup>200</sup> read:

*"The Security Council,*

*"Having received and noted with appreciation the report of Mr. Gunnar V. Jarring, the representative*

of Sweden, on the mission undertaken by him pursuant to the Security Council resolution of 21 February 1957,

*"Expressing its thanks to Mr. Jarring for the care and ability with which he has carried out his mission,*

*"Observing with appreciation the expressions made by both parties of sincere willingness to co-operate with the United Nations in finding a peaceful solution,*

*"Observing further that the Governments of India and Pakistan recognize and accept the provisions of its resolution dated 17 January 1948 and of the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949, which envisage in accordance with their terms the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people through the democratic method of a free and impartial plebiscite, and that Mr. Jarring felt it appropriate to explore what was impeding their full implementation,*

*"Concerned over the lack of progress towards a settlement of the dispute which his reports manifests,*

*"Considering the importance which it has attached to demilitarization of the State of Jammu and Kashmir as one of the steps towards a settlement,*

*"Recalling its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,*

*"1. Requests the Government of India and the Government of Pakistan to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation and to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations;*

*"2. Requests the United Nations representative for India and Pakistan to make any recommendations to the parties for further appropriate action with a view to making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement;*

*"3. Authorizes the United Nations representative to visit the sub-continent for these purposes; and*

*"4. Instructs the United Nations representative to report to the Security Council on his efforts as soon as possible."<sup>201</sup>*

## THE TUNISIAN QUESTION (I)

### INITIAL PROCEEDINGS

By letter<sup>202</sup> dated 13 February 1958, the representative of Tunisia requested the President of the

<sup>195</sup> 791st meeting: para. 8.

<sup>196</sup> S 3911, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 10-11.

<sup>197</sup> S/3920, 807th meeting: para. 3.

<sup>198</sup> 808th meeting: para. 8.

<sup>199</sup> 808th meeting: para. 17.

<sup>200</sup> S/3922, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 21-22.

<sup>201</sup> The United Nations representative reported pursuant to the resolution on 31 March 1958 [S 3984, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 38-46].

<sup>202</sup> S 3952, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 13-14.