

the United States, because the proposed sanctions against Iran were contrary to the Charter of the United Nations.¹⁸⁶⁴

The representative of Mexico stated that in his view, there was a contradiction between the fourth preambular paragraph of the draft resolution and its operative clauses, in that whereas the International Court of Justice had called for restraint on the part of both Governments in taking any action that could aggravate the tension between the two countries, the draft resolution would most probably have that effect. Furthermore, he suggested that the detention of the hostages did not in itself constitute a threat to peace, and therefore sanctions against Iran under Chapter VII would not be justified.¹⁸⁶⁵

At the 2191st meeting, the draft resolution S/13735 submitted by the United States received 10 votes in favour to 2 against, with 2 abstentions, and was not adopted owing to the negative vote by a permanent member. One member did not participate in the vote.¹⁸⁶⁶

By letter¹⁸⁶⁷ dated 9 June 1980, the representative of the United States transmitted the final judgment of the International Court of Justice delivered on 24 May 1980, in the case concerning the United States Diplomatic and Consular staff in Teheran. The Court in its final judgment of 24 May decided that the Government of Iran had violated and was still violating the international conventions in force between the two countries as well as customary international law, and that Iran was therefore responsible towards the United States under international law. Furthermore, the Court called once again for the termination of this unlawful act and for the release and safe departure of the hostages from Iran, as well as for the placement in the hands of the protecting power, of the premises, property, archives and documents of the United States Embassy and its consulates in Iran. In addition, the Court decided that no member of the United States diplomatic or consular staff could be kept in Iran or be subjected to any judicial proceedings or participate in them as a witness. The Court also decided that the Government of Iran was to make reparations to the Government of the United States for the injury caused to it by the events of 4 November and what had followed from those events, the form and amount of which would be settled by the Court in the case of failure of agreement between the parties. Prior to the Order of the International Court of Justice on 15 December 1979 and its final judgment on 24 May 1980, the Government of Iran, in a letter dated 9 November, had stated that the Court could not take cognizance of the present case, as in its view the matter was essentially and directly within its national sovereignty. Furthermore, the Iranian government had argued that the case, as submitted by the United States, was confined to the question of hostages, which in its view was a secondary and marginal aspect of the overall problem, and that the case therefore ought to be

analysed in terms of the relations between the United States and Iran over the last 25 years leading to the current crisis.

In response to the Iranian position, the Court stated that the matter, by the very fact that it concerned diplomatic and consular premises, the detention of internationally protected persons, and the interpretation or application of multilateral conventions codifying international law governing diplomatic and consular relations, would fall within international jurisdiction. Furthermore, the Court stated that in accordance with Article 36 of the United Nations Charter, it was authorized to make recommendations which the Security Council should take into consideration. In addition, since the dispute was a legal one, the resolution of such legal question could be an important and sometimes the decisive factor in the peaceful settlement of a dispute. Finally, it stated that the Court could not consider the question of the hostages as a marginal or secondary issue with regard to the legal principles involved. As to the claim of the Iranian Government that provisional measures could not be unilateral, the Court referred to Article 41 of its Statute, which emphasized the importance of provisional measures in preserving the respective rights of either party, and stated that a request for provisional measures was by its nature unilateral. Since the Government of Iran had not appeared before the Court, the International Court of Justice concluded that Iran's claim was not justified.¹⁸⁶⁸

LETTER DATED 3 JANUARY 1980 FROM 52 MEMBER STATES CONCERNING AFGHANISTAN

By a letter dated 3 January 1980 addressed to the President of the Security Council,¹⁸⁶⁹ the representatives of 43 Member States¹⁸⁷⁰ requested an urgent meeting of the Council to consider the situation in Afghanistan and its implications for international peace and security. Subsequently, nine other Member States added their signatures to the letter of request.¹⁸⁷¹

By a letter dated 4 January 1980¹⁸⁷² the representative of Afghanistan transmitted a telegram addressed to

¹⁸⁶⁸ *Ibid.*, pp. 17-19.

¹⁸⁶⁹ S/13724, *OR*, 35th yr., *Suppl. for Jan-March 1980*, p. 1.

¹⁸⁷⁰ Australia, the Bahamas, Belgium, Canada, Chile, China, Colombia, Costa Rica, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Germany, Federal Republic of, Greece, Haiti, Honduras, Iceland, Italy, Japan, Liberia, Luxembourg, the Netherlands, New Zealand, Norway, Oman, Pakistan, Panama, Papua New Guinea, the Philippines, Portugal, Saint Lucia, Saudi Arabia, Singapore, Spain, Suriname, Sweden, Turkey, the United Kingdom, the United States, Uruguay and Venezuela.

¹⁸⁷¹ Bahrain, Bangladesh, Indonesia, Malaysia, Samoa, Senegal, Somalia, Thailand and Uganda (see S/13724/Add. 1 and 2).

¹⁸⁷² S/13725, *OR*, 35th yr., *Suppl. for Jan-March 1980*, p. 2. Previously and subsequently a number of communications had been and were received from various Governments commenting and expressing those Governments' positions on the events in Afghanistan, some of them criticizing or denouncing the action of the USSR in sending its military forces to Afghanistan, and others endorsing that action. (See communications dated 31 Dec 1979 from China (S/13717, *OR*, 34th yr., *Suppl. for Oct.-Dec. 1979*, pp. 147-148), 4 Jan. from Democratic Kampuchea and Chile (S/13727 and S/13728, *OR*, 35th yr., *Suppl. for Jan-March 1980*, p. 3), 11 Jan. from Mongolia (S/13739, *ibid.*, p. 13), 16 Jan. from Solomon Islands (S/13747, *ibid.*, p. 17), 17 Jan. and 5 May from Italy (S/13760 and S/13925, *ibid.*, p. 21 and *ibid.*, *Suppl. for April-June 1980*, p. 40), 8 Feb. from Dominica (S/13794, *OR*, 35th yr., *Suppl. for Jan-March 1980*, p. 46) and 11 Feb. 1980 from Pakistan (S/13810, also circulated under the symbol A/35/109).

¹⁸⁶⁴ *Ibid.*, paras. 44-56.

¹⁸⁶⁵ *Ibid.*, paras. 57-72.

¹⁸⁶⁶ *Ibid.*, para. 149.

¹⁸⁶⁷ S/13989. For the judgment, see ICJ Pub. No. 451.

the President of the Security Council by the Minister for Foreign Affairs of Afghanistan in which the Government strongly opposed the convening of the Security Council to consider the situation in Afghanistan, calling such a move a direct and clear interference in Afghanistan's internal affairs.

In five other communications from Afghanistan (see letters dated 10 and 16 January, 5 March, 24 April and 17 May 1980)¹⁸⁷³ the Government explained the nature of the events in Afghanistan and the justification for calling in military assistance from the USSR, pursuant to a mutual defence treaty between the two countries, and sought to give progressive assurance that the situation was under control and that the developments were in accordance with the wishes and interests of the people of Afghanistan.

Decision of 7 January 1980 (2190th meeting): rejection of draft resolution

At the 2185th meeting on 5 January 1980, the Security Council started its deliberations with a procedural discussion as to whether the Council should convene to discuss the subject matter contained in the letter from the 52 Member States. The representatives of the USSR and the German Democratic Republic opposed the inclusion of the item in the Council's agenda at all, while the representatives of Bangladesh, Norway and China spoke in favour of such inclusion. Subsequently the President announced that in the light of the previous consultations among the members it was agreed to include the letter from the 52 Member States in the Council's agenda, which was thereafter adopted.¹⁸⁷⁴

The Council considered the matter at six meetings held between 6 and 9 January 1981, in the course of which the President, with the consent of the Council, invited the representatives of Afghanistan, Australia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Czechoslovakia, Democratic Kampuchea, Egypt, the Federal Republic of Germany, Hungary, Italy, Japan, Lao People's Democratic Republic, Liberia, Malaysia, Mongolia, New Zealand, Netherlands, Pakistan, Panama, Poland, Saudi Arabia, Singapore, Somalia, Spain, Turkey, Venezuela, Viet Nam, Yugoslavia and Zaire, at their request, to participate in the discussion without the right to vote.¹⁸⁷⁵

At the 2185th meeting the representatives of the United Kingdom, Portugal, the United States, China, Bangladesh and Norway made statements in connection with the invitation extended by the Council to the representative of Afghanistan to the effect that their non-opposition to the invitation did not indicate their recognition of or support for the new Government in that country, or endorsement of the events there.¹⁸⁷⁶ The

representative of the USSR spoke in favour of the invitation to the representative of Afghanistan.¹⁸⁷⁷

Speaking on the substance of the matter before the Council, the representative of the Philippines said that the matter was both urgent and serious, requiring careful judgement by the Council and appropriate measures under Chapter VI of the Charter. For that reason it was necessary for the Council to be acquainted with all the facts of the events in Afghanistan; if it could be shown that armed intervention had occurred it was the first duty of the Member States to call for a cessation of hostilities and a withdrawal of all foreign troops from Afghanistan.¹⁸⁷⁸

The representative of Pakistan reviewed the events in Afghanistan, saying that since the last week of December 1979 the country had been subjected to a massive military invasion by the Soviet Union on the pretext of saving the country from external interference, basing that invasion on the so-called Treaty of Friendship, Good-Neighbourliness and Co-operation between the two countries. In the event, the legitimate Government of Afghanistan had been disrupted and the President there, Hafizular Amin, dislodged and executed along with members of his family, and the influx of refugees pouring out of the country into Pakistan since April 1978 had greatly increased, thereby imposing considerable strains on Pakistan's scarce resources. Pakistan regarded any attempt to solve Afghanistan's internal crisis by the use of external force as counter-productive. He pointed out that the situation threatened peace and security in the area and exhorted the Soviet Union to withdraw its troops from Afghanistan and leave the country alone.¹⁸⁷⁹

The Minister for Foreign Affairs of Afghanistan protested against the convening of the Security Council, despite earlier objections by his Government, so as to consider matters which he claimed belonged to the realm of internal affairs of his country and were not covered by the provisions of Article 34 of the Charter of the United Nations. Nevertheless he gave an account of the recent political events, which he said had culminated in the necessity of deploying Soviet forces in Afghanistan, a measure he said was legitimate, being based on the mutual treaty of friendship between the two countries. He said that subversive and counter-revolutionary activities perpetrated and directed from external, imperialist sources had been fomented in his country during the régime of the former ruler, Hafizular Amin, and had brought terrible suffering and bloodshed to the Afghan people. He declared that once that foreign interference and armed attacks against Afghanistan had ceased the limited contingents of Soviet armed forces would be withdrawn from Afghanistan immediately.¹⁸⁸⁰

At the 2186th meeting on the same day and at the 2190th meeting on 7 January 1980, the representative of the USSR said that the deployment of Soviet forces in Afghanistan was a legitimate exercise undertaken at the

¹⁸⁷³ S/13734, S/13752 and S/13835, *OR, 35th yr., Suppl. for Jan-March 1980*, pp. 7 and 73 (the letter of 16 Jan. 1980 was not reproduced in the *Suppl.*) and S/13910 and S/13951, *ibid., Suppl. for April-June 1980*, pp. 29 and 59, respectively

¹⁸⁷⁴ 2185th mtg., paras 6-37.

¹⁸⁷⁵ For details concerning these invitations, see chapter III.

¹⁸⁷⁶ 2185th mtg., paras 40-45.

¹⁸⁷⁷ *Ibid.*, para. 46.

¹⁸⁷⁸ *Ibid.*, paras 53-59.

¹⁸⁷⁹ *Ibid.*, paras 66-83.

¹⁸⁸⁰ *Ibid.*, paras 85-116 and 2190th mtg., paras 87-102.

invitation of the Government of Afghanistan pursuant to the mutual treaty of friendship between the two countries. It was also justified, he said, bearing in mind the recent events in Afghanistan. He then recounted some of those events which he said had jeopardized the security and sovereignty of Afghanistan and that consequently necessitated intervention by the Soviet Union in response to the Government's request. He quoted several statements from various published sources to the effect that contingents of Afghan dissidents, rebels or counter-revolutionaries were training and grouping in Afghanistan for the purpose of intensifying armed opposition against, and eventually overthrowing the Government of, Afghanistan. However, he gave assurance that after the end of the causes that had induced the request by Afghanistan, the Soviet Union would withdraw its military contingents.¹⁸⁸¹

In the course of the debate during the six meetings most of the other delegates who participated in the discussion spoke in varying degrees of criticism of the action of the Soviet Union in dispatching its troops to Afghanistan. They felt that the action had caused a situation of instability in the region and posed a threat to international peace and security. Some regarded the action as a military invasion of Afghanistan, in violation of the Charter of the United Nations and of the principles of international law, aimed at creating a puppet régime which would thereafter passively absorb a foreign ideology over the people and thereby promote what they considered to be the Soviet Union's strategy for world domination. Others complained that the absorption of Afghanistan, a neutral country, into the Soviet Union's sphere of influence would result in the weakening of the Non-Aligned Movement. They urged the Council to take appropriate measures to stop and reverse the Soviet Union's action in Afghanistan.¹⁸⁸²

Some other speakers supported the action of the Soviet Union, arguing that Afghanistan in exercise of its sovereign power had a right to request assistance from a State with which it had a mutual treaty providing for such assistance. They also stated that the arrangement between Afghanistan and the Soviet Union was legitimate under the provisions of Article 51 of the Charter of the United Nations. Therefore, they asserted, the characterization of the temporary presence of a limited contingent of Soviet military forces in Afghanistan as a

threat to international peace and security was an exaggeration which held no validity whatsoever. In the circumstances, and bearing in mind the provisions of Article 2, paragraph 7, of the Charter, which prohibits interference in the internal affairs of States, they contended that consideration by the Security Council of the situation in Afghanistan, particularly in the face of strong objections by that Government itself, was legally unfounded, politically wrong and counter-productive.¹⁸⁸³

At the 2189th meeting on 7 January 1980, the President drew the attention of the Council to a draft resolution sponsored by Bangladesh, Jamaica, the Niger, the Philippines and Zambia.¹⁸⁸⁴ Among its operative paragraphs the draft resolution would have the Security Council: deeply deplore the recent armed intervention in Afghanistan, call for the immediate withdrawal of all foreign troops from Afghanistan and request the Secretary-General to submit a report on the progress towards the implementation of the proposed resolution within two weeks.¹⁸⁸⁵

The draft resolution was introduced by the representative of Bangladesh, who said that its operative paragraphs laid down the course of action to be followed; the purpose was to reaffirm the principles of the Charter of the United Nations. He strongly commended the draft resolution and urged its full support by the Council so as to bring peace back to Afghanistan.¹⁸⁸⁶

Prior to the vote, statements were made by the representatives of China and the German Democratic Republic; the Chinese delegation considered the draft inadequate for not condemning the Soviet Union directly. The delegation of the German Democratic Republic said that the draft resolution was unacceptable because, among other things, it ignored the process of mutual bilateral treaties.¹⁸⁸⁷

The draft resolution was put to the vote. It received 13 votes in favour to two against (German Democratic Republic and Union of Soviet Socialist Republics), but was not adopted owing to the negative vote of a permanent member of the Council.¹⁸⁸⁸

After the vote the President announced that, pursuant to an earlier suggestion, the meeting would be postponed and would be reconvened after consultations.¹⁸⁸⁹

Decision of 9 January 1980 (2190th meeting): resolution 462 (1980)

The Council resumed its 2190th meeting on 9 January 1980 and had before it a draft resolution sponsored by the delegations of the Philippines and Mexico.¹⁸⁹⁰

¹⁸⁸¹ 2186th mtg., paras. 3-33 and 2190th mtg., paras. 110-123.

¹⁸⁸² For texts of relevant statements see 2185th mtg.: Philippines (paras. 53-59); Japan (paras. 119-123); Egypt (paras. 126-149); 2186th mtg.: China (paras. 35-44); United Kingdom (paras. 48-55); Colombia (paras. 59-63); Democratic Kampuchea (paras. 92-106); Saudi Arabia (paras. 109-115); New Zealand (paras. 130-133); Turkey (paras. 139-142); 2187th mtg.: United States (paras. 6-27); Australia (paras. 30-35); Singapore (paras. 38-48); Norway (paras. 52-56); Zaire (paras. 59-68); Somalia (paras. 72-80); Malaysia (paras. 80-90); Costa Rica (paras. 92-100); Italy (paras. 104-110); Liberia (paras. 112-133); 2188th mtg.: Portugal (paras. 24-27); Venezuela (paras. 30-38); Netherlands (paras. 51-59); Jamaica (paras. 97-102); 2189th mtg.: Zambia (paras. 6-18); Niger (paras. 53-57); Federal Republic of Germany (paras. 63-76); Yugoslavia (paras. 80-97); 2190th mtg.: Panama (paras. 10-34); Zaire (paras. 39-59); Canada (paras. 63-72); Chile (paras. 75-84); Tunisia (paras. 105-108); France (paras. 125-131); 2190th mtg., addendum 1: Mexico (paras. 160-165).

¹⁸⁸³ For texts of the relevant statements see: 2186th mtg.: Bulgaria (paras. 67-87); Poland (paras. 118-126); 2187th mtg.: Hungary (paras. 136-147); 2188th mtg.: German Democratic Republic (paras. 4-21); Czechoslovakia (paras. 41-48); Viet Nam (paras. 62-93); and 2189th mtg.: Mongolia (paras. 21-37); Lao People's Democratic Republic (paras. 101-112).

¹⁸⁸⁴ 2189th mtg., para. 3.

¹⁸⁸⁵ For the full text of the draft resolution, see S/13729, *OR, 35th yr., Suppl. for Jan.-March 1980*, p. 4.

¹⁸⁸⁶ 2189th mtg., paras. 41-49.

¹⁸⁸⁷ 2190th mtg., paras. 136-139.

¹⁸⁸⁸ *Ibid.*, para. 140.

¹⁸⁸⁹ *Ibid.*, para. 141.

¹⁸⁹⁰ Circulated in document S/13731, the draft resolution was subsequently adopted as resolution 462 (1980) (see below).

Introducing the draft resolution, the representative of the Philippines said that in view of the frustration of the Council in the discharge of its primary responsibility under the Charter and bearing in mind the gravity of the situation in Afghanistan, the sponsors of the draft resolution felt that the rest of the international community should be given an opportunity to consider the issue. Consequently, the purpose of the draft resolution was to refer the matter to the General Assembly as the only remaining, peaceful alternative recourse to the Council's inaction.¹⁸⁹¹

The representative of the USSR said that his delegation categorically opposed the idea of convening an emergency session of the General Assembly to discuss the so-called situation in Afghanistan. His delegation and the Government of Afghanistan had already objected to discussion of the matter in the Security Council in the first place; it was therefore wrong, counter-productive and contrary to the Charter of the United Nations, particularly Article 2(7) thereof, to embroil the United Nations any further in the discussion of a non-existent question. For that reason his delegation would vote against the draft resolution.¹⁸⁹²

The draft resolution was put to a procedural vote. It received 12 votes in favour to two against (German Democratic Republic and Union of Soviet Socialist Republics), with one abstention (Zambia), and was adopted as resolution 462 (1980).¹⁸⁹³ The text of the resolution reads as follows:

The Security Council,

Having considered the item on the agenda of its 2185th meeting, as contained in document S/Agenda/2185,

Taking into account that the lack of unanimity of its permanent members at the 2190th meeting 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 to examine the question contained in document S/Agenda/2185.

Speaking after the vote, the President, in his capacity as the representative of France, said that although his delegation had voted in favour of the resolution just adopted, it had reservations concerning the wording of the second preambular paragraph of the resolution.¹⁸⁹⁴

The General Assembly convened the sixth emergency special session held between 10 and 14 January 1980 and considered the matter referred to it by the Security Council. At the conclusion of the special session the Assembly adopted resolution ES-6/2 on the subject.¹⁸⁹⁵ By a note dated 15 January 1980 the Secretary-General transmitted the text of General Assembly resolution ES-6/2 to the Security Council, drawing particular attention to paragraph 8 of the resolution, which called

upon the Council to consider ways and means which could assist in the implementation of that resolution.¹⁸⁹⁶

LETTER DATED 1 SEPTEMBER 1980 FROM THE
PERMANENT REPRESENTATIVE OF MALTA

Decision of 4 September 1980 (2246th meeting): discussion of the question postponed

By a letter dated 1 September 1980,¹⁸⁹⁷ the representative of Malta requested that the Security Council urgently convene to consider the illegal action taken by the Libyan Government which had stopped the Maltese drilling operations in the Mediterranean. He informed the Council that Libya and Malta had made an agreement on 23 May 1976 to submit the question concerning the jurisdiction of the continental shelf between the two countries to the International Court of Justice. He stated that Malta had begun its drilling operations in the area following the failure of the Libyan Government to ratify that agreement.

At the 2246th meeting on 4 September 1980, the Council invited the representatives of Malta and the Libyan Arab Jamahiriya to participate in the discussion, at their request and without the right to vote. The Council considered the item at the 2246th meeting on 4 September 1980.¹⁸⁹⁸

At the meeting, the President drew the Council's attention to the letter from the Government of Malta and to a letter dated 3 September 1980¹⁸⁹⁹ from the representative of Libya, whereby he claimed that the dispute over the continental shelf was a bilateral issue to be settled between the two countries, and of secondary importance compared to the overall relations between Malta and Libya, and accordingly did not necessitate the involvement of the Council.

The President also referred to a letter dated 4 September 1980¹⁹⁰⁰ from the representative of Malta in which he re-emphasized the importance of the issue and reiterated his request for the consideration by the Council of the unlawful act of the Libyan Government.

The representative of Malta stated that the drilling operations by Malta were in accordance with the 1958 Convention on the Continental Shelf, which was based on customary law derived from the decisions of international tribunals and the practice of States. He noted that Libya was not a party to that Convention, but asserted that the principle of the median line as the boundary between the two States justified Malta's drilling operations for the production of off-shore oil.¹⁹⁰¹

The representative of the Libyan Government requested that the meeting be postponed for a study of the Maltese statement and consultations with his Government.¹⁹⁰²

¹⁸⁹¹ Resuming 2190th mtg., paras. 145-156.

¹⁸⁹² *Ibid.*, paras. 166-169.

¹⁸⁹³ *Ibid.*, para. 178.

¹⁸⁹⁴ *Ibid.*, paras. 185-187.

¹⁸⁹⁵ For the text of the resolution, see *G.AOR, 6th emerg. spec. session, Supplement No. 1*.

¹⁸⁹⁶ S/13744.

¹⁸⁹⁷ S/14140, *OR, 35th yr., Suppl. for July-Sept. 1980*, p. 70.

¹⁸⁹⁸ For details, see chapter III.

¹⁸⁹⁹ S/14145, *OR, 35th yr., Suppl. for July-Sept. 1980*, p. 75.

¹⁹⁰⁰ S/14147, *ibid.*, p. 76.

¹⁹⁰¹ 2246th mtg., paras. 7-42.

¹⁹⁰² *Ibid.*, paras. 44-47.