

COMPLAINT BY GREECE AGAINST TURKEY

Decision of 25 August 1976 (1953rd meeting): resolution 395 (1976)

By letter¹³⁷⁰ dated 10 August 1976 addressed to the President of the Security Council, the Permanent Representative of Greece requested that a meeting of the Security Council be urgently convened to consider repeated violations by Turkey of Greece's sovereign rights in the Aegean.

At the 1949th meeting on 12 August 1976, the Council included the item in its agenda and invited the representatives of Greece and Turkey to participate in the discussion.¹³⁷¹ The question was considered at the 1949th, 1950th and 1953rd meetings on 12, 13 and 25 August 1976.

At the 1949th meeting the representative of Greece¹³⁷² said his Government's request for a meeting on the basis of Article 35 of the Charter was due to the dangerous situation in the Eastern Mediterranean caused by provocative Turkish acts. On 6 August, while consultations between the two countries on the dispute over the Aegean continental shelf were proceeding, Turkey dispatched a research ship, *Sismik-I*, in order to carry out seismic explorations of certain areas of the continental shelf that Greece was entitled to consider as belonging to it. Greece considered a provocation the Turkish seismic tests conducted while negotiations were under way and in spite of a note of protest, Turkish operations did not cease. The Council was not asked to take a decision on the legal dispute, since the International Court of Justice had already been seized with the matter, but it was up to the Council to call upon Turkey to cease provocative activities in the Eastern Mediterranean.

At the same meeting the representative of Turkey, regretting the absence of his Foreign Minister, expressed surprise at the move of the Greek Government in bringing the Aegean situation before the Council, since Greece was to be blamed for its lack of co-operation, militarization of some islands and harassment of Turkish research vessels in yet undelimited areas of the Aegean.¹³⁷³

At the 1950th meeting on 13 August, the Minister for Foreign Affairs of Turkey¹³⁷⁴ charged that Greece had resorted to military harassment of a Turkish civilian ship conducting research outside Greek territorial waters. Furthermore, the allegation of Turkish violations of Greek sovereign rights on the continental shelf was unfounded since both countries had conflicting claims over it and the question was under negotiations.

Turkey considered Greek claims as unilateral and not based on international law since the legal concepts in that regard were still evolving. The mission of the research ship should have been considered in the context

of the preparation of the Turkish Government to negotiate with Greece in full possession of relevant scientific data.¹³⁷⁵

Speaking in exercise of its right of reply, the Greek representative stressed that in the absence of a bilateral agreement on the continental shelf, applicable international law, both conventional and customary, determined the extent of the rights of the parties. In this regard Turkey should have asked for Greek consent to carry out scientific research by virtue of the 1958 Geneva Conventions on the law of the sea which, according to the International Court of Justice, were binding upon non-signatories.¹³⁷⁶

The Turkish representative replied that if Greece wished to discuss the legal aspects of the problem instead of concentrating on the question of the threat to the peace, he was also ready to do so.¹³⁷⁷

At the 1953rd meeting on 25 August 1976, the representative of the United Kingdom introduced¹³⁷⁸ a draft resolution¹³⁷⁹ jointly submitted by France, Italy, the United Kingdom and the United States which, he said, reflected the concern of the Council over the disagreement between Greece and Turkey and called upon both parties to resume negotiations in view of reaching a satisfactory settlement.

A number of representatives, noting the complexity of the issue, involving legal, political and economic aspects, stressed that the criteria to resolve the dispute were to be found in the Charter and in particular in article 1, 2(3), 33 and 36.¹³⁸⁰

At the same meeting, the draft resolution was adopted by consensus as resolution 395 (1976). It reads as follows:¹³⁸¹

The Security Council.

Taking note of the letter of the Permanent Representative of Greece dated 10 August 1976 (S/12167),

Having heard and noted the various points made in the statements by the Ministers for Foreign Affairs of Greece and Turkey,

Expressing its concern over the present tensions between Greece and Turkey in relation to the Aegean Sea,

Bearing in mind the principles of the Charter of the United Nations concerning the peaceful settlement of disputes, as well as the various provisions of Chapter VI of the Charter concerning procedures and methods for the peaceful settlement of disputes,

Noting the importance of the resumption and continuance of direct negotiations between Greece and Turkey to resolve their differences,

Conscious of the need for the parties both to respect each other's international rights and obligations and to avoid any incident which might lead to the aggravation of the situation and which, consequently, might compromise their efforts towards a peaceful solution,

1. *Appeals* to the Governments of Greece and Turkey to exercise the utmost restraint in the present situation;

¹³⁷⁵ *Ibid.*, paras. 11-26.

¹³⁷⁶ *Ibid.*, paras. 28-38.

¹³⁷⁷ *Ibid.*, paras. 41-43.

¹³⁷⁸ 1953rd mtg., paras. 3-12.

¹³⁷⁹ S/12187, adopted without change as resolution 395 (1976).

¹³⁸⁰ 1953rd mtg., statements by Italy (paras. 13-22); United States (paras. 23-33); France (paras. 34-42); Panama (paras. 43-49); Romania (paras. 50-57); USSR (paras. 58-69); Pakistan (paras. 70-82); China (paras. 83-85) and the Libyan Arab Republic (paras. 86 and 87).

¹³⁸¹ Resolution 395 (1976).

¹³⁷⁰ S/12167, OR, 31st yr., Suppl. for July-Sept. 1976, p. 36.

¹³⁷¹ 1949th meeting, paras. 1-3. For details see chapter III

¹³⁷² *Ibid.*, paras. 7-29.

¹³⁷³ *Ibid.*, paras. 32-37.

¹³⁷⁴ 1950th mtg., paras. 5-10.

2. *Urges* the Governments of Greece and Turkey to do everything in their power to reduce the present tensions in the area so that the negotiating process may be facilitated;

3. *Calls upon* the Governments of Greece and Turkey to resume direct negotiations over their differences and appeals to them to do everything within their power to ensure that these negotiations will result in mutually acceptable solutions;

4. *Invites* the Governments of Greece and Turkey in this respect to continue to take into account the contribution that appropriate judicial means, in particular the International Court of Justice, are qualified to make to the settlement of any remaining legal differences which they may identify in connexion with their present dispute.

COMPLAINT BY LESOTHO AGAINST SOUTH AFRICA

INITIAL PROCEEDINGS

By letter¹³⁸² dated 16 December 1976 addressed to the President of the Security Council the representative of Lesotho requested that a meeting of the Council be convened to consider the grave situation affecting his country, following the closure of the border by the Republic of South Africa, between the south-eastern part of Lesotho and that part of South Africa referred to as Transkei.

In a previous letter¹³⁸³ dated 27 October 1976 addressed to the President of the Security Council, the representative of Lesotho had transmitted a communication to the President of the Council from the Prime Minister of Lesotho calling attention to problems faced by his country due to instability created on its borders. The area was seething with discontent of the inhabitants of Transkei, who moved from one so-called bantustan to another, as an expression of their dissatisfaction with political arrangements of the newly styled "Republic of Transkei". He said that conditions of that nature were bound to affect the prevailing peace and stable economy of Lesotho and appealed for support for the African people of South Africa in their struggle for basic rights and for his country, which had become part and parcel of that struggle.

In a letter¹³⁸⁴ dated 12 November 1976, addressed to the President of the Security Council, the representative of the Libyan Arab Republic, on behalf of the African Group, drew attention to the explosive situation created by South Africa's action which not only posed a serious economic problem to Lesotho but constituted a threat to the peace and security in the region. The letter maintained that the international community had to assume its responsibility to give every support required by Lesotho.

By letter¹³⁸⁵ dated 16 November 1976, the representative of South Africa transmitted to the Secretary-General a letter from the South African Minister for Foreign Affairs stating that the Republic of Transkei had already denied that it had closed the borders between Lesotho and Transkei, but merely insisted on valid travel documents for people crossing the border into

Transkei. The allegation that South Africa had breached international law was completely without foundation.

At the 1981st meeting on 21 December 1976 the Security Council adopted¹³⁸⁶ the agenda and considered the item at the 1981st and 1982nd meetings held on 21 and 22 December 1976. At the 1981st meeting the representatives of Lesotho and Madagascar¹³⁸⁷ and at the 1982nd meeting those of Botswana and Mauritius¹³⁸⁸ were invited, at their request, to take part in the discussion without the right to vote.

Decision of 22 December 1976 (1982nd meeting):
resolution 402 (1976)

At the 1981st meeting on 21 December 1976, at the opening of the discussion, the representative of Lesotho said that the closure of the border by South Africa which had had profound consequences for the politico-economic life of his country was meant to constitute pressure on Lesotho because of its refusal to recognize Transkei. Lesotho reiterated its right to exercise one of the basic attributes of sovereignty, namely, to accord recognition to States that it held qualified for recognition. The Lesotho Government could not be pressured into entering into bilateral negotiations with Transkei, a step that would be tantamount to recognizing the homeland's independence and thereby giving legitimacy to *apartheid*. He went on to say that closing the borders of a landlocked country was tantamount to an act of aggression. The adoption of a positive and constructive resolution by the Council would reaffirm and uplift the cardinal principles of the Charter and remove a possible threat to international peace and security in the region.¹³⁸⁹

The representative of Madagascar speaking on behalf of the African Group stated that the facts of which the Government of Lesotho was complaining fell into the same category as acts of blackmail and open aggression directed against neighbouring independent States in order to force them to renounce their support for the liberation movements and thus to abandon their opposition to colonial domination and *apartheid*. He declared that the Council should take such decisions that would (1) contribute to strengthening the position of those who formed the overwhelming majority in southern Africa and who did not intend in any way to give up their rights, their dignity and to jeopardize the territorial integrity of their countries, (2) repeat once again the various appeals which had been made by the General Assembly in favour of sanctions against South Africa, whether through economic blockade, an obligatory arms embargo or the ending of military co-operation and relations between banks and transnational corporations on the one hand and the racist régime on the other hand, and (3) give the highest priority to ensuring that Lesotho's right of transit be respected in all circum-

¹³⁸² S/12257, OR, 31st year, Suppl. for Oct-Dec 1976, p. 54.

¹³⁸³ S/12221, *ibid.*, p. 14.

¹³⁸⁴ S/12227, *ibid.*, p. 22.

¹³⁸⁵ S/12231, *ibid.*, p. 24.

¹³⁸⁶ 1981st mtg., preceding para. 1.

¹³⁸⁷ *Ibid.*, paras. 2-4.

¹³⁸⁸ 1982nd mtg., paras. 2 and 3.

¹³⁸⁹ 1981st mtg., paras. 8-29.