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REPORT OF THE SPECIAL COMMITTEE ON THE SITUATION WITH
REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE
GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND
PEOPLES*

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SOUTH WEST AFRICA

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* This document contains the chapter on South West Africa. The general introductory chapter will be issued subsequently under the symbol A/5446. Other chapters will be issued later in addenda.

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A. ACTION TAKEN BY THE SPECIAL COMMITTEE IN 1962 AND BY THE
GENERAL ASSEMBLY AT ITS SEVENTEENTH SESSION

1. Following its consideration of the Territory of South West Africa at its meetings in 1962, the Special Committee adopted conclusions and recommendations on the Territory.
2. In these conclusions and recommendations the Special Committee stated that the subjection of the indigenous people of South West Africa to racial discrimination embodied in the system of laws and regulations based on apartheid, the suppression of the civil liberties of the indigenous people, the domination of the indigenous people by the white minority, the lack of any representation or voice for the African people of South West Africa in the Government and administration of South West Africa, were totally illegal and immoral and in violation of the Mandate of the League of Nations undertaken by South Africa, and the Charter of the United Nations. Noting the failure of the efforts of the United Nations to bring to the people of South West Africa justice, dignity, freedom and civil liberties, it firmly believed that the result of the continued intransigence of South Africa would inevitably be the building up of a dangerous situation fraught with the gravest consequences. The Special Committee generally endorsed the conclusions and recommendations contained in the report of the Special Committee for South West Africa and believed that the time had come for the United Nations to take urgent, positive action, including the possibility of sanctions against South Africa, to prevent the annexation of South West Africa by South Africa and to ensure the emergence of South West Africa into independence at the earliest date in accordance with the freely expressed wishes of the people.
3. The General Assembly, at its seventeenth session considered the question of South West Africa and had before it the report of the Special Committee on the situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples as well as the report of the Special Committee for South West Africa. At the conclusion of its consideration the General Assembly on 14 December 1962 adopted resolution 1805 (XVII), the operative paragraphs of which read as follows:

"1. Reaffirms its solemn proclamation of the inalienable right of the people of South West Africa to independence and national sovereignty;

2. Condemns the continued refusal of the Government of South Africa to co-operate with the United Nations in the implementation of General Assembly resolution 1702 (XVI) as well as other resolutions concerning South West Africa;
3. Requests the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to discharge, mutatis mutandis, the tasks assigned to the Special Committee for South West Africa by resolution 1702 (XVI), taking into consideration the special responsibilities of the United Nations with regard to the Territory of South West Africa, and to submit to the General Assembly, at its seventeenth or at its eighteenth session, a report on the implementation of the present resolution;
4. Further requests all Member States to extend to the Special Committee such assistance as it may require in the discharge of these tasks;
5. Requests the Secretary-General to appoint a United Nations Technical Assistance Resident Representative for South West Africa to achieve the objectives outlined in General Assembly resolution 1566 (XV) of 18 December 1960 and paragraph 2 (g) of resolution 1702 (XVI), in consultation with the Special Committee;
6. Requests the Secretary-General to take all necessary steps to establish an effective United Nations presence in South West Africa;
7. Urges the Government of South Africa to refrain from
 - (a) Employing direct or indirect action involving the forcible removal of indigenous inhabitants from their homes or their confinement in any particular location;
 - (b) Using the Territory of South West Africa as a base for the accumulation, for internal or external purposes, of arms or armed forces;
8. Urges all Member States to take into consideration the anxieties expressed by a large number of Member States concerning the supply of arms to South Africa, and to refrain from any action likely to hinder the implementation of the present and previous General Assembly resolutions on South West Africa;
9. Decides to maintain the question of South West Africa on its agenda as an item requiring urgent and constant attention."

4. The General Assembly also adopted two other resolutions relating to South West Africa. By resolution 1806 (XVII) of 14 December 1962, the General Assembly decided to dissolve the Special Committee for South West Africa and expressed its gratitude to that Committee for its efforts and for its contribution to the achievement of the objectives of the United Nations. By resolution 1804 (XVII) of 14 December 1962, the General Assembly drew the attention of petitioners concerned to the report of the Special Committee for South West Africa and to the report of the Chairman and Vice-Chairman of that Committee on their visit to South Africa and South West Africa, as well as to the other resolutions adopted at its seventeenth session on the question of South West Africa.

B. INFORMATION ON THE TERRITORY

Introduction

5. Information on the Territory is contained in the reports submitted to the General Assembly at its seventeenth session by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples^{1/} and by the former Special Committee for South West Africa,^{2/} as well as in the reports^{3/} of the former Committee on South West Africa to the General Assembly. Supplementary information on recent developments concerning the Territory is set out below.

Judgement of the International Court of Justice^{4/}

6. On 30 November 1961, the Government of South Africa filed preliminary objections contesting the jurisdiction of the International Court of Justice to hear the case brought against South Africa by the Governments of Ethiopia and Liberia on 4 November 1960 with respect to the continued existence of the Mandate for South West Africa and the duties and performance of South Africa, as Mandatory, thereunder

7. Following hearings held in October 1962, the International Court delivered its Judgement on the preliminary objections on 21 December 1962. In its Judgement, the Court dismissed each of the four preliminary objections raised by South Africa and found, by eight votes to seven, that it had jurisdiction to adjudicate upon the merits of the dispute.

8. The Judgement confirmed that the Mandate for South West Africa remains in force. The International Court has fixed 30 September 1963 as the time-limit for the filing of counter-memorials by South Africa on the merits of the dispute.

1/ Official Records of the General Assembly, Seventeenth Session, Annexes, agenda item 25, document A/5233, chapter IX.

2/ Ibid., Seventeenth Session, Supplement No. 12 (A/5212), and A/5212/Add.1 and 2.

3/ Ibid., Ninth Session, Supplement No. 14 (A/2666 and Add.1 and Corr.1); Tenth Session, Supplement No. 12 (A/2913 and Add.1 and 2); Eleventh Session, Supplement No. 12 (A/3151); Twelfth Session, Supplement No. 12 (A/3626); Thirteenth Session, Supplement No. 12 (A/3906 and Add.1); Fourteenth Session, Supplement No. 12 (A/4191); Fifteenth Session, Supplement No. 12 (A/4464); Sixteenth Session, Supplements Nos. 12 (A/4957) and 12 A (A/4926).

4/ South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), Preliminary Objections, Judgement of 21 December 1962; ICJ Reports 1962, p. 319.

9. On 21 January 1963, the Prime Minister of South Africa informed the House of Assembly that the Government would reply to the allegations made by Ethiopia and Liberia. He added that the Government's decision to participate in the substantive proceedings "should, however, not be construed as implying a change in the attitude which it has consistently held in regard to the South West Africa issue, namely that the International Court has no jurisdiction".

General Law Amendment Acts Nos. 76 of 1962 and 37 of 1963

10. During the period under review the General Law Amendment Act, No. 76 of 1962, and the General Law Amendment Act, No. 37 of 1963, were brought into force in South West Africa to the extent that they amend the Suppression of Communism Act, 1950, the Public Safety Act, 1953, the Criminal Law Amendment Act, 1953, and certain other South African statutes in force in the Territory. Those provisions of the new legislation relating to sabotage were not extended to the Territory.

11. By amendments to the Suppression of Communism Act, Act No. 76 of 1962 authorizes the South African Minister of Justice to prohibit the assembly of any gathering or of any particular gathering or any gathering of a particular nature, class or kind at any place or area during any period if he deems it necessary to combat the achievement of any of the objects of communism, as defined in the Suppression of Communism Act. It further authorizes the Minister of Justice, if he is satisfied that any person "advocates, advises, defends or encourages the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object" or "is likely to" do so, or "engages in activities which are furthering or may further the achievement of any such object", to prohibit that person "from being within or absenting himself from any place or area ... or, while the prohibition is in force, communicating with any person or receiving any visitor" other than his advocate or attorney. By a definition inserted by Act 37 of 1963, a "'place' means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop structure, vessel, aircraft or vehicle, and any part of a place".

12. The 1962 legislation introduces, among other provisions, restrictions on the registration of newspapers, inter alia, by requiring the payment of a deposit of up to R20,000 (£10,000) as a condition for registration, a deposit which may be forfeited if the Minister prohibits the publication of the newspaper under existing provisions of the Suppression of Communism Act.

13. Act 37 of 1963, by additional amendment to the Suppression of Communism Act, makes it a treasonable offence for a person who is or was resident in the Republic of South Africa - which by definition in the original Act includes South West Africa unless the context indicates otherwise - to have at any place outside the Republic: (1) "advocated, advised, defended or encouraged the achievement by violent or forcible means of any object directed at bringing about any political, industrial, social or economic change within the Republic by the intervention of or in accordance with the directions of under the guidance of or in co-operation with or with the assistance of any foreign government or any foreign or international body or institution"; or (2) "undergone any training outside the Republic or obtained any information from a source outside the Republic which could be of use in furthering the achievement of any of the objects of communism or of any body or organization which has been declared to be an unlawful organization under the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), and who fails to prove beyond a reasonable doubt that he did not undergo any such training or obtain any such information for the purpose of using it or causing it to be used in furthering the achievement of any such object". The provisions are made retroactive to 1950. For the above mentioned treasonable offences, the 1963 Act lays down, except where the death penalty is imposed, a compulsory penalty of at least five years imprisonment.

14. Under a provision which lapses on 30 June 1964 unless extended for periods of twelve months or less by resolution of both Houses of Parliament, a person imprisoned under the Suppression of Communism Act or other laws specified may continue to be detained after serving his sentence if the Minister of Justice is satisfied that he is "likely to advocate, advise, defend or encourage the achievement of any of the objects of communism".

15. Another provision of Act 37 of 1963 authorizes any commissioned officer of the police to arrest without warrant or cause to be arrested any person whom he "suspects upon reasonable ground of having committed or intending or having intended to commit any offence under the Suppression of Communism Act" or who in his opinion is in possession of "any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connexion with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested". The detainee is to be visited once a week in private by the local district magistrate, additional or assistant magistrate. Otherwise no person may have access to the detainee except with the consent of the Minister of Justice. No court has jurisdiction to order the release of the detainee according to the 1963 Act, but the Minister may at any time direct his release. The provisions of the 1963 Act relating to such arrest and detention are to remain in operation until 30 June 1964 unless extended for twelve month periods or less, or suspended, by proclamation of the State President.

16. Among other provisions, Act 37 of 1963 also authorizes officers in charge of post or telegraph offices to detain "any postal article or telegram which is reasonably suspected of containing anything which will afford evidence of the commission of any offence or is reasonably suspected of being sent in order to further the commission of any offence or to prevent the detection of any offence". The postal article or telegram may be brought by the Postmaster-General to the notice of any Attorney-General, or, at the request of the latter, handed over to any public prosecutor.

Prohibition of meetings

17. In October 1962, the South African Minister of Justice, acting under the Suppression of Communism Act, as amended, prohibited the holding of meetings and demonstrations in connexion with the detention, arrest or trial of a

person until 30 April 1963 in South Africa or South West Africa. According to a South African Government publication, the Minister took this action following acts of sabotage in South Africa.

18. Officials in South West Africa subsequently refused permits to SWAPO to hold a public meeting in November 1962 in the African township at Walvis Bay, and to SWANU to hold a meeting in the old African location at Windhoek early in December, according to the local Press. The permit requested by SWAPO was said to have been refused in terms of the proclamation prohibiting gatherings in South Africa and South West Africa.

19. A national conference was called by the South West Africa National Union (SWANU) to meet at the end of December 1962 with the object of deciding on the action to be taken to liberate South West Africa in the shortest possible time. According to SWANU spokesmen, the conference, to which representatives from eighteen principal cities and all Native reserves as well as other political and non-political organizations and the Press were invited, was to mark the opening of a new era in the struggle for freedom and independence. Official permission for the meeting was not obtained however, and the conference was cancelled.

Changes in administration

20. Certain changes were made in 1962 affecting the administration of the Coloured population^{5/} of the Territory living outside of the Rehoboth Community. Unlike the African population, which is administered by the South African Government, the Coloured population falls under the administrative and legislative control of the Territorial Administration.

^{5/} According to the preliminary results of the 1960 census, the total Coloured population of the Territory numbered 23,930, of whom 8,968 lived in Rehoboth; of the remaining 15,962, a total of 6,073 were concentrated in the urban areas of Windhoek, Walvis Bay and Keetmanshoop, and the rest were distributed throughout the rest of South West Africa.

21. In 1962, a Coloured Council, a statutory body composed of eleven Coloured persons, was established. Its functions are to advise the Administrator of the Territory on "matters affecting the economic, social, educational and cultural interests of the coloured population" other than the burghers, or citizens, of Rehoboth and to act as liaison between the Administrator and the Coloured population outside of Rehoboth. The members of the first Coloured Council were appointed for a three-year term although a system of election may be introduced later. In addition, the first of a few projected Coloured townships for the separate residence of Coloured persons in larger urban areas were established in Walvis Bay and Windhoek.

22. There has been no change in the structure of Native administration. However, under the Native Laws Amendment Act 1962, officials of the South African Department of Bantu Administration and Development are to retain the former title of "Native" Commissioners rather than "Bantu" Commissioners while stationed in South West Africa. As indicated in reports of the former Committee on South West Africa and petitions from indigenous inhabitants, the African population of the Territory includes several groups who are not "Bantu".

Formulation of five-year development plans for non-Europeans

23. In September 1962, the South African Government appointed a five-member commission of inquiry under the Chairmanship of Mr. F.H. Odendaal to investigate the progress of the inhabitants of South West Africa, more particularly its non-White inhabitants, and make recommendations on a comprehensive five-year plan for the accelerated development of "the various non-White groups of South West Africa, inside as well as outside their own territories in South West Africa". The Commission was asked to give particular attention to ascertaining, taking fully into consideration "the background, traditions and habits of the native inhabitants", how further provision should be made "for the social and economic advancement, effective health services, suitable education and training, sufficient opportunities for employment, proper agricultural, industrial and mining development in respect of their territories, and for the best form of participation by the natives in the administration and management of their own interests".

24. The commission, which was instructed to submit its report within a year and also to report from time to time on any tasks which it desired to recommend for immediate implementation, had made five trips to the Territory as of February 1963.

25. It has been reported that two separate commissions of inquiry are to investigate and report on five-year development plans, respectively, for the Coloured population of the Rehoboth Gebiet, and for the Coloured population elsewhere in South West Africa.

Strike by contract labour at Tsumeb

26. The largest scale single incidence of arrests and convictions of African contract labourers in the Territory in recent years took place in December 1962 following strike action by Ovambo contract workers at a new copper smelting plant at Tsumeb. A total of 105 Ovambo workers were convicted of refusing to carry out instructions; 61 were sentenced to a fine of R10 or 30 days imprisonment under the Master and Servants Proclamation and 44 charged with the same offence under other labour legislation, were sentenced to 50 days imprisonment without option of fine. Their labour contracts were cancelled and all were to be repatriated to Ovamboland after serving their terms. The service contracts of 24 others who did not appear in court were also cancelled and they were returned to Ovamboland. It was also reported that a group of new recruits who had refused to start work would probably be sent back to Ovamboland.

C. CONSIDERATION BY THE SPECIAL COMMITTEE

Introduction

27. The Special Committee considered the question of South West Africa at its 142nd, 145th to 149th, and 167th to 169th meetings between 4 April and 10 May 1963.

Implementation of operative paragraphs 5 and 6 of General Assembly resolution 1805 (XVII)

28. When it began its consideration of the question of South West Africa, the Special Committee had before it an exchange of letters^{6/} between the Secretary-General and the Permanent Representative of South Africa to the United Nations relating to the implementation of operative paragraphs 5 and 6 of General Assembly resolution 1805 (XVII).

29. By letter of 28 March 1963, the Secretary-General, referring to previous conversations held on his behalf with a representative of the South African Government on the subject, pointed out that operative paragraphs 5 and 6 of the resolution requested the Secretary-General to appoint a United Nations Technical Assistance Resident Representative for South West Africa, in consultation with the Special Committee, and to take all necessary steps to establish an effective United Nations presence in the Territory. He indicated that it would be helpful to have the views of the South African Government on the subject of the appointment of a Technical Assistant Resident Representative before the Special Committee commenced its consideration of the question.

30. In reply, by letter of 2 April 1963, the Permanent Representative of South Africa, on instructions from the Minister of Foreign Affairs of South Africa, recalled that it had been clearly indicated in the previous conversations that the South African Government would not be able to agree to the appointment of a "United Nations Resident Representative for Technical Assistance in South West Africa". The letter added, inter alia, that until the Odendaal Commission's findings and recommendations had been received and studied, the Government could not consider whether any outside expert advice would still be necessary. The Secretary-General was also reminded of the case before the International Court of Justice.

6/ A/AC.109/37.

Invitation to South Africa to participate in the work of the Special Committee

31. At its 145th meeting, the Special Committee decided to invite a representative of South Africa to attend meetings at which the question of South West Africa was considered, in order to hear any statements he might wish to make and receive any other information members of the Special Committee might seek. The invitation was extended by letter of 9 April 1963^{7/} from the Chairman of the Special Committee to the Permanent Representative of South Africa to the United Nations.

32. In reply, by letter dated 16 April 1963,^{8/} the Permanent Representative of South Africa stated that his Government was unable to accept the invitation because, apart from South Africa's attitude on the constitutional position, it considered that it was incumbent not only on the parties to the proceedings before the International Court of Justice but also upon the United Nations to comply with the sub judice principle.

Written petitions and hearings

33. The Special Committee circulated the following written petitions concerning South West Africa:

<u>Petitioner</u>	<u>Document No.</u>
Twelve petitions from Chief Hosea Kutako, Chief Samuel Witbooi and SWAPO dated from August 1962 to 4 April 1963	A/AC.109/PET.63 and Add.1 and 2
Messrs. Kahandumba Kangunde, Korunjenge Nguvava and Kanjonika Virore	A/AC.109/PET.64
Mr. Abicid E. Narenga	A/AC.109/PET.65
Miss Rosalynde Ainslie, Secretary, Anti-Apartheid Movement	A/AC.109/PET.66
Chief Richard Gert Forster	A/AC.109/PET.67
Mr. G.B. Partenbach, Secretary, SWANU, and Mr. Nathaniel Maxuiriri, Vice-President, SWAPO	A/AC.109/PET.68
Mr. John Garvey Muundjua	A/AC.109/PET.69
Mr. Sam Nujoma, President, SWAPO	A/AC.109/PET.70
Mr. E.P. Nanyemba	A/AC.109/PET.71

^{7/} A/AC.109/40.

^{8/} Ibid.

<u>Petitioner</u>	<u>Document No.</u>
Three petitions from Mr. Kamue Tjozongoro	A/AC.109/PET.72 and Add.1
Mr. H.C. Beukes	A/AC.109/PET.73
Twenty-eight petitions and enclosures from Mr. Jacobus Beukes dated from August 1962 to 6 March 1963	A/AC.109/PET.74 and Add.1-3
Mr. Jacob Kuhangua	A/AC.109/PET.98
Messrs. J. Beukes, H. Olivier, and F.C. Junius	A/AC.109/PET.103
Mr. Pedro Mueshahange, Chief representative in Tanganyika for SWAPO	A/AC.109/PET.104
Mr. I.G. Nathaniel, Acting President of SWAPO	A/AC.109/PET.105
Mr. Jariretundu Kozonguizi, President, SWANU	A/AC.109/PET.110
The Reverend Marcus Kooper, SWAUNIO	A/AC.109/PET.111
South West Africa National Union (SWANU)	A/AC.109/PET.127

34. The Special Committee heard the following petitioners concerning South West Africa:

Mr. Jacob Kuhangua, National Secretary, South West Africa Peoples Organization (SWAPO) (142nd meeting)

Mr. Jariretundu Kozonguizi, President, South West Africa National Union (SWANU) (145th meeting)

The Reverend Markus Kooper, on behalf of the South West Africa United National Independence Organization (SWAUNIO) (145th meeting)

35. Mr. Kuhangua said that since the question of South West Africa had been before the United Nations for seventeen years, there was no need to analyse general conditions in the Territory. However, a number of recent incidents indicated a still further deterioration in the situation and a social, political and economic disintegration of catastrophic proportions was in sight. Certain delegations contested the seriousness of the situation and considered that it did not constitute a threat to international peace and security, he stated, but there

were many parallels between the rise of the Nationalist Party in South Africa and of the German National Socialist movement in the 1930's. The laws passed by the two regimes often had similar names, and their aims were certainly similar. Both in South Africa and in South West Africa, civil rights were denied to opponents of the State; political groups opposed to the State were banned, and their leaders persecuted or exiled; trade union organizations were prohibited; the Press was censored; mere opposition was described as sabotage, and so on. Just as Nazi Germany had unleashed its military forces against a peaceful Europe in 1939, South Africa was preparing to play a similar role in Africa. Its policies were a serious threat to international peace and security.

36. The recent worsening of the situation in South West Africa was demonstrated first of all by labour conditions. African trade unions were not recognized because of the impossibility of supervising every trade union meeting. In other words, what could not be controlled by the police could not be allowed to exist. The action taken in December 1962 against workers at the Tsumeb Copper Smelting Plant, which was controlled by American Metal Climax and Newmont of New York, showed how the labour system worked. The workers had complained about the heat and fumes in the plant. Already in 1961, SWAPO representatives had visited the company's New York offices to discuss the working conditions. The workers' protest strike had met with swift reprisal and such was the hypocrisy of South African labour legislation that the Master and Servants Ordinance was invoked against them without there having been any recognition that a dispute between management and labour was involved. Shortly afterwards, there were surprise police searches of trains carrying Ovambo labour recruits and of kraals in Ovamboland and twelve people were arrested.

37. Another alarming aspect of the situation in South West Africa was the inordinate rise in the level of armaments. Prominent South Africans had intimated that South Africa would take over South West Africa by force if it lost the case before the International Court of Justice. That was perhaps why all Whites in the Territory were being armed to kill Africans. He stated that a Magistrate's Report showed that in the Windhoek District, in January 1963, there were 4,173 rifles with a calibre greater than .22; 2,473 rifles of .22 calibre; 3,412 pistols

and revolvers; 1,173 shotguns; and 597 combination guns; and that in 1962, more than a million rounds of ammunition had been imported into the District. Since the beginning of 1963, even secondary school pupils were training with arms so as to be able to kill the men, women and children of South West Africa because they were black.

38. Anti-revolutionary repression continued to harass the people of South West Africa. In this connexion he referred to two members of SWAPO, Mr. Hijupulua and Mr. Nangonja, who had been deported to Angola, and asked the Special Committee to institute inquiries as it was feared the Portuguese might have killed them. He also referred to the arrest in Bulawayo in January 1963 of eight South West Africans, seven of whom had been on their way to Dar es Salaam to take up scholarships granted under United Nations resolution 1705 (XVI): Mr. Joseph Maxton, a SWAPO representative in Bechuanaland, and Messrs. Elliah, Israel, N. Nujoma, Sheepo, Shiimbi, Shikomba and Tjiriange. He felt some action should be taken by Member States with respect to such arrests. SWAPO had organized an underground route to Tanganyika and South Africa was blocking the route to freedom with the co-operation of the United Kingdom. However, all the laws in the world could not stop the march of his people to freedom.

39. Mr. Kozonguizi said that he would endeavour to crystallize the problem not only as it manifested itself in South West Africa but also in the whole of southern Africa, where the bloodiest racial confrontation in the history of human relations might well occur.

40. The question of South West Africa could be considered on several fronts - namely, in the United Nations where it had been under discussion for sixteen years, in the International Court of Justice, in Africa and, lastly, in South West Africa. New factors were affecting the situation, namely, the moral support of the whole world, the active assistance of the peoples of Africa and Asia, and the experience of German aggression.

41. With reference to United Nations action, he asked whether, given South Africa's resistance to the Organization's efforts, the time had not come to invoke the Articles of the Charter under which sanctions could be applied against South Africa, in order to check its defiance of world opinion and to secure the implementation of United Nations resolutions on South West Africa.

/...

42. In view of the Prime Minister's statement in Parliament in December 1962, to the effect that South Africa's decision to defend its position before the International Court of Justice during the next stage of the proceedings did not mean that it recognized the Court's jurisdiction, Mr. Kozonguizi questioned the usefulness of delaying punitive action under the Charter until South Africa added contempt of the International Court to its defiance of the United Nations.

43. The African people felt strongly about the freedom of Africa and their determination would lead sooner or later to the liberation of their continent. He hoped that the United Nations would intervene before the desired peaceful struggle for African liberation changed to bloodshed.

44. In South West Africa itself, it was possible that the people, driven to despair and imbued by a fierce desire to free themselves, might resort to any means. The crude measures which South Africa's Minister of Justice had pushed through Parliament were designed to ensure the permanent subjugation of the African inhabitants, but the Government misread history, for in South Africa its policies had already led to spontaneous outbursts of violence and underground movements.

45. He was appealing to the United Nations to arrest the trend throughout southern Africa before it turned to a major racial clash. By acting forcefully in South West Africa, the United Nations could inaugurate new standards of human conduct so that respect for the sacred rights of peoples would replace feudal, mercantile and military interests.

46. Mr. Kozonguizi stated that he had deliberately refrained from describing conditions in South West Africa, since in his opinion the time had come for decisive action in view of South Africa's defiance of United Nations resolutions and of its continued efforts to consolidate its position in South West Africa.

47. The Reverend Markus Kooper observed that experience had proved beyond the shadow of a doubt that the United Nations could not solve the problem of South West Africa by debates or resolutions. The people of South West Africa were in complete agreement with the conclusion of the Carpio-De Alva mission which visited the Territory in 1962 that nothing short of the use of force would ever induce the South African Government to alter its attitude and policy.

48. The situation in the Territory had already been deplorable at the time of the dissolution of the League of Nations, and if the United Nations had taken action

then, the situation would have been solved long ago. Instead, the South African settlers' racist Government had been allowed to take a whole series of new measures: it had removed people from their land and homes against their will, intensified its policy of apartheid, armed the civilian population, including women, and intensified the militarization of the country. The United Nations, as the legal successor to the League of Nations, had been competent to take action had it really been interested in solving the problem.

49. It was in 1946 that Chief Witbooi and Chief Kutako, two patriots in the Territory, had sent their first petition to the United Nations, asking it to take over the administration of the Territory. For reasons of its own, however, the United Nations had never been able to come to the assistance of the indigenous inhabitants. It had not seriously considered the obvious fact that the South African Government, in its determination to preserve colonialism for the future generations of European settlers, had not only been disregarding United Nations resolutions but had also been violating the terms of the Mandate and of the Charter, in creating the dangerous situation existing in the Territory.

50. While the United Nations had debated the question, the South African racist regime had strengthened its military organization, established the Broederbond and intensified its apartheid policy in South West Africa. According to the Johannesburg Star, an American by the name of Ellender, who had visited South West Africa after the seventeenth session of the General Assembly, had described the situation in the Territory as frightening. He had asked White people what they would do if the United Nations took over the administration of South West Africa from South Africa and all had replied that they would fight. It was because of this determination that the situation was, in truth, frightening. Moreover, it was steadily deteriorating. That was why, on behalf of the SWAUNIO and the people of South West Africa, he appealed to the Committee to ensure the application of the General Assembly's resolutions, particularly resolutions 1702 (XVI) and 1805 (XVII). He requested the immediate establishment of an effective United Nations presence in the Territory, for the protection of the indigenous inhabitants and for the termination of South African administration there.

General statements by members

51. The representative of Ethiopia recalled that the question of South West Africa had been on the agenda of the General Assembly since 1946. The Mandated Territory should have enjoyed the benefits of the International Trusteeship System and should long ago have achieved independence. South Africa, the Mandatory Power, had not only refused to place the Territory under Trusteeship or to prepare it for independence but had violated the provisions of the Mandate, under which it was required to promote to the utmost the material and moral well-being and the social progress of the inhabitants, and had acted contrary to the United Nations Charter and the Declaration of Human Rights by subjecting the people of South West Africa to the system of apartheid and depriving them of their fundamental rights. The indigenous people were excluded from any participation in the administration of their own country, denied the right to choose their type of employment or conditions of employment and deprived of freedom of movement, of the right to individual ownership of land and of the right to education.

52. In its reply of 2 April 1963^{2/} to the communication from the Secretary-General, who had been requested by General Assembly resolution 1805 (XVII) to appoint a United Nations Technical Assistance Resident Representative for South West Africa, the South African Government had refused to agree to such an appointment. The Ethiopian delegation hoped that the Secretary-General would continue to press for the enforcement of operative paragraphs 5 and 6 of resolution 1805 (XVII).

53. The South African authorities had adopted an extraordinary attitude regarding the United Nations and its Members. The Minister of Foreign Affairs, speaking in Parliament in January, had said that the Afro-Asian bloc was today in full control of the United Nations. The South African authorities were disturbed by the process of decolonization and the emergence to independence of dependent territories in accordance with the Charter and the Declaration on the granting of independence to colonial countries and peoples. South Africa should accept the inevitable change that had come about and recognize the legitimate rights of the people of South West Africa.

54. The South African white minority leaders, concerned at the results of their misguided policy and their refusal to comply with the decisions of the United Nations, were now forced to adopt a policy of military preparedness. The Minister for Defence, speaking in the House of Assembly, had boasted of the recent acquisition of a weapon of exceptional value which, he said, had been supplied by a country which had previously declared that it would never sell a single weapon to South Africa. According to The Windhoek Advertiser of 12 February 1963, the Prime Minister had assured the minority White settlers in South West Africa that the Republic of South Africa would stand by them. The South African authorities had deliberately adopted a negative attitude towards the United Nations which prevented them from agreeing to reasonable negotiations with a view to carrying out their international obligations towards the Mandated Territory.

55. Another important matter to which his delegation wished to draw the Committee's attention was the special legislation applied in Bechuanaland and other territories under United Kingdom administration, which provided that if a warrant were issued for the arrest of an individual from South West Africa for some offence, even under the apartheid law or the pass system, the authorities were required to search for the person and hand him over to the South West African authorities. At the sixteenth session of the General Assembly an appeal had been made to the United Kingdom authorities to repeal that Act. Unfortunately the appeal had been ignored. In connexion with the case referred to by Mr. Kuhangua at the 142nd meeting, he again appealed to the United Kingdom authorities to desist from arresting South West Africans who fled from the Territory in search of freedom.

56. Mr. Kuhangua had also informed the Committee that two South West Africans, members of SWAPO, had been deported to Angola and he had expressed the fear that they might have been killed. The Ethiopian delegation supported the petitioner's request for an investigation and recommended that the Committee should take immediate action to save the lives of the two men.

57. He also drew the Committee's attention to the fact that, according to another petition,^{10/} the South West African authorities refused to allow a Coloured South African doctor to practise in the Rehoboth Gebiet, where there was a shortage of doctors.

^{10/} A/AC.109/PET.103.

58. There could be no doubt that the Republic of South Africa was continuing activities in South West Africa which were contrary to the Mandate, the United Nations Charter, the Declaration of Human Rights and a number of General Assembly resolutions. The Committee should make an effort to find the best ways and means of implementing the provisions of resolution 1805 (XVII), which requested it to discharge, mutatis mutandis, the tasks assigned to the Special Committee for South West Africa by resolution 1702 (XVI). He suggested that the Committee should call upon all Member States, in particular the industrial Powers, which had trade and political ties with South Africa to implement resolution 1761 (XVII), which requested Member States to break off diplomatic relations with the Government of South Africa or to refrain from establishing such relations, to close their ports to all vessels flying the South African flag, to enact legislation prohibiting their ships from entering South African ports, to boycott all South African goods and refrain from exporting goods, including all arms and ammunition, to South Africa and to refuse landing and passage facilities to all aircraft belonging to the Government of South Africa and companies registered under the laws of South Africa. Those measures would compel the Republic of South Africa to comply with the resolutions of the General Assembly. The Ethiopian delegation appealed once again to the Western Powers to exert their influence on South Africa so that that country would honour world public opinion and help to bring about a solution to the problem of South West Africa.

59. The representative of Cambodia recalled that the question of South West Africa was the oldest colonial question the General Assembly had discussed, for as early as December 1946 the Assembly had recommended that the Mandated Territory of South West Africa should be placed under the International Trusteeship System. More than sixteen years later, South Africa was still administering the Territory as though it owned it, disregarding the legitimate aspirations of the indigenous population and the terms of the Mandate. The situation was all the more intolerable in that the international community had adopted the Declaration on the granting of independence to colonial countries and peoples. The Special Committee, whose mandate was to study the implementation of that Declaration, should not disappoint the population of the Territory.

60. The Mandatory Power could not claim any right of possession, since the Territory was under an international Mandate. The situation was further aggravated by the fact that the Mandatory Power was pursuing a policy of apartheid in the Territory, a policy which was contrary to human rights and to the principles of the Charter and had been condemned by the whole world. The accusations levelled against the Mandatory Power were significant: the subjection of the indigenous inhabitants to racial discrimination embodied in the system of laws and regulations based on apartheid; the abolition of the civic rights of the indigenous population; the domination of that population by a White minority; the lack of any representation or voice for the Africans, who accounted for more than four-fifths of the total population, in the Government and administration of South West Africa; and the virtual annexation of the Territory by South Africa.

61. For years the international community had been trying to induce South Africa to implement the provisions of the Mandate, but despite many resolutions and the advisory opinions of the International Court of Justice the action of the United Nations had encountered the persistent refusal of the South African Government to co-operate. Moreover, some Member States had themselves felt some hesitation up to the time of the adoption of the Declaration on the granting of independence to colonial countries and peoples. Under that Declaration the international community was entitled to demand that "immediate steps" should be taken in the Territory to transfer all powers to its people.

62. He was surprised that, in the Fourth Committee in November 1962, the South African Minister for Foreign Affairs had tried to refute only three counts of the indictment made of his country's policy in South West Africa: the creation of a situation liable to threaten international peace and security, the crime of genocide and the militarization of the Territory for internal and external purposes. At no time had the representative of South Africa spoken of the political evolution of the Territory or of the rights of its population and he had chosen to ignore the fact that the South African delegation, headed by Mr. Verwoerd, had told the Chairman and Vice-Chairman of the Special Committee for South West Africa that the South African Government was not planning any substantial change in its policy of apartheid and that the Mandate had ceased to exist with the disappearance of the League of Nations.

63. The Cambodian delegation thought that, at the present stage of the consideration of the question, it would be advisable to circumscribe the problem and no longer to invoke legal considerations before the Committee. The Committee was concerned with the implementation of the principles of the Declaration and in resolution 1805 (XVII) there had been no mention of the case brought before the International Court of Justice by the Governments of Ethiopia and Liberia.

64. In 1962 the Special Committee of Seventeen had adopted conclusions and recommendations in which it had stated that the virtual annexation of South West Africa and the application of the system of administration based on apartheid were illegal and immoral, had declared its conviction that the intransigence of South Africa would result in the creation of a dangerous situation and had affirmed that the time had come for the United Nations to take positive action, including the possibility of sanctions.^{11/}

65. That stand should now be followed by specific measures. In his view, the Committee should base its action on resolution 1805 (XVII), which recommended a number of constructive measures, including the appointment of a United Nations Technical Assistance Resident Representative for South West Africa. That suggestion was meeting with the refusal of South Africa, which cited the work of its Commission for the Five-Year Plan - which undoubtedly provided for separate development under the principle of apartheid. The resolution, however, also made some specific requests to the South African Government. In particular, the Committee should consider whether the South African Government had refrained from employing direct or indirect action involving the forcible removal of indigenous inhabitants from their homes or their confinement in any particular location and from using the Territory of South West Africa as a base for the accumulation, for internal or external purposes, of arms or armed forces. The Cambodian delegation also urged that an effective United Nations presence should be established in South West Africa for purposes of inspection or, failing that, that the Committee should send a group to ascertain what was the present situation

^{11/} A/5238, chapter IX, paras. 122-124.

in the Territory. Such measures obviously required the co-operation of the Mandatory Power. If that Power refused to co-operate, the Committee would have to draw the attention of the Security Council to the situation in South West Africa, as it was entitled to do under the terms of paragraph 7 of resolution 1702 (XVI) and paragraph 8 of resolution 1810 (XVII) of the General Assembly. In any case, the Committee must maintain the question of South West Africa on its agenda as an item requiring urgent and constant attention.

66. His delegation would support any decision designed to grant the people of South West Africa their legitimate right to self-determination and independence.

67. The representative of Mali said that the question of South West Africa had been on the General Assembly's agenda for nearly seventeen years. There could be no doubt that the United Nations had special responsibilities in regard to that Territory, and the Committee's chief concern should be the implementation of resolution 1514 (XV).

68. The absurd claim of the Government of South Africa, which challenged United Nations competence in the matter, was not a valid legal argument for delaying the application of measures which would enable the people of the Territory to attain independence. In resolutions 1702 (XVI) and 1805 (XVII) the Assembly had clearly stated that South West Africa was a Mandated Territory and that South Africa had persistently failed in its international obligations in administering the Territory on behalf of the international community.

69. The report of the Special Committee for South West Africa had been an overwhelming indictment of South Africa's methods of administration. The testimony of the petitioners and the Press showed that the Mandate entrusted to South Africa had been violated. Despite the mystery with which the South African Government tried to surround the people of South West Africa and despite the clamour of the South African Press, the voice of an enslaved people could be heard raised in constant appeal to the conscience of mankind.

70. It was well known that it was fascism, worse even than colonialism, that had swept down upon that part of Africa. Mr. Kuhangua, a spokesman for SWAPO, the largest liberation movement in the Territory, had confirmed it when he had said that there were many analogies between the rise of the South African Nationalist Party and that of the German National Socialist Movement in the 1930's. He had

pointed out that the laws enacted by the two regimes often had similar titles and that their aims were certainly identical. He had added that just as Nazi Germany had launched its military might upon a peaceful Europe, South Africa was preparing similar action in Africa; it was for that reason that the South African Government's policy constituted a threat to international peace and security.

71. In 1962 the Special Committee for South West Africa had stated in its report to the General Assembly that the situation in the Territory was deteriorating. Despite the precautions taken to conceal the truth of the situation from them, the Chairman and Vice-Chairman of that Committee had returned from their visit to South West Africa deeply disturbed and their report had been a further condemnation of the Verwoerd Government's racist policy.

72. Within the Territory there was general unemployment for all save a very few, who were subjected to savage exploitation. The rest of the population were condemned to slow death, from abject poverty. Workers could be flung out of their employment at a moment's notice. Equal pay for equal work was regarded as an absurdity. The relations between employers and workers were those of masters and servants and it went without saying that African trade unions were not recognized. Similarly, on the political side, the brutal practice of apartheid, the absence of any legislation safeguarding elementary civic rights, police measures and confinement in Native reserves were all obstacles to the people's advancement.

73. Thus the South African administration of South West Africa was a failure in every respect. To allow it to continue would be to commit a crime against the people of the Territory. Not only was nothing being done for them in the economic and social fields, but every effort was made to prevent them from becoming politically aware and the South African Government had even been cynical enough to refuse to allow a United Nations Technical Assistance Resident Representative to be appointed to South West Africa. There could therefore be no hope that the South African Government's policy would develop favourably.

74. Since it was inconceivable that the international community should abandon the people of the Territory to the South African Government, the delegation of Mali considered that the Committee should recommend the adoption by the General Assembly and the Security Council, each in their own sphere, of the

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following measures: (1) the cancellation of South Africa's mandate to administer South West Africa; (2) the evacuation of all South African military forces now in South West African territory; (3) the release of all political prisoners; (4) the immediate establishment of an effective United Nations presence in South West Africa, to be responsible for (a) maintaining order and the operation of essential services; (b) organizing free elections with a view to the complete transfer of power to the democratically elected representatives of the people; (c) advising and assisting the Government resulting from the general elections.

75. The delegation of Mali was convinced that the United Nations could and should intervene in order to enact and apply such interim measures. It based that conviction on the United Nations action in West Irian, in the Congo and in Rwanda and Burundi. The methods used in those territories could be adapted to South West Africa and there could be no doubt that such intervention would have the active support of all justice-loving Governments. That it would respond fully to the wishes of the people of the Territory was clear from the report of the Chairman and Vice-Chairman of the Special Committee for South West Africa, which stated that it was the overwhelming desire of the African population that the United Nations should assume direct administration of the Territory and thus take all preparatory steps for the granting of freedom to the indigenous population as soon as possible.^{12/}

76. In the view of his delegation, the suggestions he had just made constituted the very least that should be done, having regard to the desperate situation in the Territory.

77. The representative of the Union of Soviet Socialist Republics said that no one who followed events in Africa could fail to be aware of an extremely important fact: namely, that the achievement of independence by the African countries had halted somewhere on the northern frontiers of Angola, the Central African Federation and Mozambique. In East and Central Africa, the neo-colonialists maintained a pseudo-liberal facade; in the southern part of the African continent, their policy appeared in its true light, that of odious and unbridled racism.

^{12/} A/5212, para. 19 (42 (d)).

78. In the seventeen years during which the United Nations had been examining the question of the long-suffering Territory of South West Africa, many resolutions had been adopted. General Assembly resolution 1805 (XVII) stated that the continuance of the critical situation in South West Africa constituted a serious threat to international peace and security. Since the adoption of that resolution, the situation had deteriorated still further, as was shown by the petitions before the Committee, including the communications of 8 January, 23 January and 5 February 1963 from Chiefs Witbooi and Kutako.

79. The racist Government of South Africa completely disregarded the resolutions of the United Nations. It was stubbornly pursuing its policy of repressing the national liberation movement by force of arms. The situation now prevailing in South West Africa recalled the nightmares of the Middle Ages. Despite the adoption of resolution 1702 (XVI), nothing had changed there: as in the past, brute force was used against the indigenous people; political persecution continued; the free enjoyment of political rights was still withheld from the people of South West Africa; the policy of apartheid had penetrated every aspect of life in that martyred country. A collaborator of Mr. Verwoerd had cynically declared that the ignorance of the Africans was the best safeguard of White supremacy. Similarly, despite resolution 1805 (XVII) the practice of population transfers had not been abandoned; the petitions which the Committee had received testified to that. Lastly, all attempts to negotiate with the Republic of South Africa had failed because that country had categorically refused to comply with the provisions of the Charter and of the Mandate.

80. Thus the South African Republic had forfeited all political, legal and moral right to exercise any control or authority in South West Africa. The time for persuasion, appeals and moral pressure had gone by. It was now essential to take decisive action of the kind already referred to at the seventeenth session of the General Assembly. The United Nations should no longer be content to adopt resolutions which remained a dead letter; it must shake off its inertia, which was not only harmful to its prestige but threatened the very existence of the people of South West Africa, as the petitioners from South West Africa who had spoken in the Fourth Committee at the seventeenth session had pointed out.

81. It was common knowledge that the failure of the United Nations in the matter was due to the support given to Verwoerd's policy by United States, British, West German and other monopolies, which, under the leadership of Oppenheimer, spread their tentacles as far as Katanga, the Rhodesias, Angola and South West Africa. In defiance of the appeal in General Assembly resolution 1805 (XVII), whereby all Member States were urged to refrain from any action likely to hinder the implementation of the resolution, the Powers were supplying the Republic of South Africa - whose military expenditure had doubled from 1961 to 1962 - with weapons, military equipment and aircraft that would help it to build up a powerful military force designed to preserve the colonialist regime both in South West Africa and in the Republic of South Africa. The South African Government knew that it could count on the support of the United States. Indeed, several South West African leaders and members of SWAPO had stated in a petition^{13/} that, "judging from her policy towards the question of South West Africa in the Trusteeship Council and also from the attitude of the United States delegate to the Committee on colonialism, it is clear that the United States Government is doing everything in its power to delay any United Nations action on South West Africa by hiding behind a policy of moderation to protect its capital invested in South West Africa".

82. In view of the situation, it was high time to apply General Assembly resolution 1810 (XVII), inviting the Committee to seek the most suitable ways and means for the speedy and total application of the Declaration to all territories which had not yet attained independence. He thought that, to begin with, the United Nations could apply economic and political sanctions against South Africa. The Reverend Michael Scott, a petitioner, had suggested in the Fourth Committee that sanctions were the only means of compelling South Africa to adopt a more realistic policy and he said that economic sanctions might take the form of a boycott of South African goods, a refusal to trade with the Republic of South Africa or an economic blockade. The Committee itself, in its report for 1962, had considered the possibility of sanctions against South Africa. He also felt that the time had come for the Committee to draw the attention of the Security Council to the situation in South West Africa and to the need for

^{13/} A/AC.109/PET.63.

decisive action to deal with it. He was convinced that it was imperative to create an atmosphere of condemnation and ostracism around the present leaders of South Africa as the only means of inducing them to change their attitude.

83. That view was shared by a number of movements and organizations. The Afro-Asian Peoples' Solidarity Conference, held in February 1963, had called upon the people of all countries to assist the population of South West Africa in its struggle for freedom and had invited the countries of Africa and Asia to declare an economic and diplomatic blockade against the Government of the Republic of South Africa. The Pan-African Freedom Movement for East, Central and Southern Africa, an organization which enjoyed great prestige in Africa, had adopted a resolution supporting the resolutions of the General Assembly on the question of sanctions and asking that they should be applied. That organization had also urged all African States and organizations to regard as hostile all States which continued to supply arms to the Republic of South Africa and which maintained diplomatic and commercial relations with that country. The Soviet Union delegation approved of that attitude and was glad to know that at its fifth session the Economic Commission for Africa had decided to expel the Republic of South Africa.

84. The Soviet Government's position on the subject had been clearly stated in a note dated 19 March 1963 addressed to the Secretary-General, in response to a request made to his delegation to state its Government's position on General Assembly resolution 1761 (XVII) on the policies of apartheid of the Government of the Republic of South Africa. The note stated that the Soviet Union Government supported the resolutions condemning apartheid and calling for sanctions against South Africa but that, in its view, sanctions would only be effective if they were applied by all Member States, and particularly by the western Powers which maintained political, economic and other ties with the Republic of South Africa. The Government of the Soviet Union had pointed out that, for its part, it had no dealings of any kind with that country.

85. The United Nations had a dual responsibility with respect to South West Africa. Not only was it a colonial country with which the Special Committee was concerned in the light of the Declaration on the granting of independence to colonial countries and peoples, but it was a Mandated Territory. The United Nations, having

taken over from the League of Nations, was responsible, as an international body, for the manner in which the Mandate was carried out. No one could deny that the Mandate was being retained by force and against the will of the indigenous population, in violation of the fundamental purposes and principles of the Charter. In recognition of South West Africa's right to independence, the international Organization was therefore justified in withdrawing the Mandate from the Republic of South Africa and requesting all Members to give the indigenous inhabitants individual or collective assistance in their struggle for independence and freedom. The Special Committee should not only categorically uphold the rights of the indigenous people of South West Africa but should urge the General Assembly or the Security Council to appeal to Member States to support those people. There was every justification for such an appeal since the Government of South Africa was being given assistance, individually or collectively, by the Western countries, and it was also necessary from the legal point of view, since the Republic of South Africa had failed to carry out its obligations under the Mandate entrusted to it.

86. The people of South West Africa, with the support of all the African States, had been engaged in a long struggle for independence and the United Nations should join in the fight. One way of doing so would be to adopt vigorous measures. Provisions had been made for such measures in General Assembly resolution 1761 (XVII) on the subject of apartheid. The question of apartheid and that of South West Africa were closely connected since one and the same policy of the South African Government was involved in both cases - being applied in the one case against the indigenous population of the Republic of South Africa and, in the other, against that of South West Africa. The fact that such a policy had been made possible by violation of the provisions of the Mandate made no difference whatsoever.

87. The sooner vigorous action was taken on the lines he had suggested - namely, revocation of the Mandate, an appeal to all Member States to assist South West Africa, and the measures provided in the resolution on apartheid - the sooner the United Nations would achieve the aims set forth in the Declaration on the granting of independence to colonial countries and peoples.

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88. The representative of Italy said that the problem of South West Africa had three main aspects. The first was the non-compliance of the Government of South Africa with the provisions of the Mandate by which the League of Nations had placed the Territory under the administration of that Government. As the preliminary judgement recently delivered by the International Court of Justice had recalled, the essential principles of the Mandates System consisted in the recognition of certain rights of the peoples of under-developed territories, the establishment of a regime of tutelage for such peoples, to be exercised by an advanced nation "on behalf of the League of Nations", and the recognition of "a sacred trust of civilization" laid upon the League and its members. Secondly, the South African Government had refused to recognize and to apply to the Territory of South West Africa the Declaration on the granting of independence to colonial countries and peoples. Thirdly, it had extended to the Territory the policies and practices of apartheid enforced by the South African Government in its own territory.

89. His delegation thought that it was particularly regrettable that the obligations set forth in the Mandate for South West Africa had been disregarded by one of the contracting parties, for the principle pacta sunt servanda was one of the bases on which the international community rested and its violation impaired the whole structure of relationships between States. It also regretted that the South African Government had not realized that the Declaration on the granting of independence to colonial countries and peoples represented a decisive step towards the establishment of a new international society based on freedom, justice and co-operation among peoples. Finally, the racial discrimination imposed by law was the main cause of the unsatisfactory situation prevailing in South West Africa. The organization of a multiracial society was undoubtedly a difficult task; the South African Government had made efforts to improve the economic and social situation of the people of South West Africa, but the step it had taken fell far short of the objectives set out in General Assembly resolution 1514 (XV). The system of apartheid was inconsistent with the Mandate of the League of Nations, with the United Nations Charter and with the Universal Declaration of Human Rights. His delegation was particularly concerned that the leaders in South Africa had not heeded the repeated appeals of world opinion on that subject.

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90. It had been stated that the United Nations had devoted too much time to the problem of South West Africa, without finding a means of solving it. Yet, the unanimous support given to the resolution on South West Africa adopted by the General Assembly at its seventeenth session, as also the measures enacted by individual States in implementing its provisions, showed that the weight of world opinion was not to be underestimated. Those facts could not fail to have a far from negligible influence on the South African rulers who denied the legal value of United Nations deliberations.

91. It could not be denied that the results of the proceedings instituted by the Governments of Ethiopia and Liberia before the International Court of Justice as an article in a leading South African newspaper had recently recognized, might prove to be an important factor in creating a movement of public opinion strong enough to cause the South African Government to change its attitude. The International Court of Justice would probably reaffirm the obligations of the South African Government with respect to the Territory of South West Africa and its judgement would be a decisive legal instrument in bringing about juridical and political changes in the status of the Territory.

92. His delegation understood that many members of the Committee might find it difficult to await the outcome of the long procedure before the Court; it would therefore consider with the utmost attention any other method that might be suggested, provided it was effective and consonant with the principles of the United Nations Charter.

93. In his encyclical Pacem in Terris of 10 April 1963, Pope John XXIII had stated that relations between political communities were to be regulated by justice and that that implied, over and above the recognition of their rights, the fulfilment of their respective duties. Political communities, he had said, had a right to existence, to self-development and to the means necessary for that purpose; they had a right to play the leading part in the process of their own development. There could be no better way of defining the principles and ideals that should govern the relationships between the States and the peoples.

94. The representative of the Ivory Coast recalled that in resolution 377 (V), entitled "Uniting for Peace", the General Assembly had stated that peace depended

especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries. Unfortunately, the obligation to respect fundamental freedoms and to promote economic well-being was being disregarded and systematically flouted by a Government which continued to apply the doctrine of racial superiority. The privations, repression and horrors to which the people of South West Africa were subjected were well known to members of the Committee. Year after year, for the last seventeen years, the United Nations had tried to persuade the Mandatory Power to discharge its obligations. Year after year the efforts of the United Nations had encountered the defiance of the South African Government and its determination to pursue a policy condemned by international opinion. The majority of the Africans were restricted to one fourth of the Territory, while the rest lived on European farms or in reserves. In its contacts with the United Nations in 1959, the South African Government had admitted that its real intention was to induce the United Nations to agree to the partition of the Territory of South West Africa and thus to allow it to incorporate part of that Territory into its own.

95. The Committee might lay itself open to a charge of complicity if it showed an accommodating attitude towards South Africa. It must make every effort to find a practical solution of the problem, on the understanding that the South African Government's refusal to observe the resolutions of the United Nations was evidence of its intention to annex part of South West Africa. It was essential that the annexation of all or part of the Territory of South West Africa should be prevented, for that would constitute aggression against a people incapable of defending itself. A resolution along those lines would not prejudice any of the rights involved and would be a conservatory measure which would make it possible to continue the efforts to negotiate with the Government of South Africa with a view to the achievement of independence by the Territory of South West Africa.

96. There was another important question which deserved the Committee's attention: the question whether the change in South Africa's legal status, as a result of its having severed its links with the Crown and become a Republic, directly or indirectly affected the status of South West Africa. If South Africa

was still to be regarded as the Mandatory Power, his delegation thought that that State was incapable of fulfilling its mission, in particular because it had adopted the doctrine of apartheid. Consideration should therefore be given to the revocation of the Mandate and the replacement of the Mandatory Power by the United Nations in order that the Territory might be led to independence. In the meantime, the Committee should declare that the United Nations would regard the annexation of all or part of the Territory of South West Africa as an act of aggression.

97. The representative of Poland recalled that the question of South West Africa had been before the United Nations for almost seventeen years, a fact which testified not only to the great interest the international community attached to it but to the obstinacy of South Africa. There was no need for any further proof of the numerous violations of the Mandate, the Covenant of the League of Nations and the Charter of the United Nations of which that country was guilty. Not only had South Africa failed to comply with its obligations to promote the well-being of the inhabitants of the Territory but, by implementing its abominable policy of apartheid, it was impeding their development.

98. South Africa denied the Africans of the Territory the right to vote and to join trade unions. Political meetings were banned and the African leaders were tortured or deported. Only recently, according to Mr. Kuhangua, two more members of SWAPO had been deported to Angola. The evidence of the petitioners, as also the numerous written petitions received in the relatively short period of time since the adoption of resolution 1805 (XVII), showed that the situation was rapidly deteriorating. The policy of apartheid was being applied with more vigour than ever before and the Committee had been informed that the Mandatory Power was encouraging the European population of the Territory to arm and was establishing military fortifications in the Territory for the purpose of bringing about the systematic extermination of the indigenous population.

99. Poland, which had experienced all the outrages of the so-called Herrenvolk, firmly believed that the South African Government's policy was but a continuation of the policy of extermination of the Africans which had begun at the time of the German occupation. The policy of the South African Nationalist Party

recalled the German repression of the Hereros, during which so many African lives had been lost. It was a distressing thought that the same Powers which in the 1930's had claimed to dissociate themselves from the policy of Nazi Germany, and whose short-sighted attitude had encouraged the Nazi regime to commit one aggression after the other, were today condemning apartheid in their statements and at the same time aiding and abetting the Pretoria regime by the supply of arms, which was creating a situation endangering peace in Africa.

100. Whatever calculations could be made regarding the possibility of utilizing South Africa in the defence of the so-called free world, it was clear that the position of those who lived on the oppression of the poorest was based on power and above all on military force. It went without saying that the militarization of South Africa and South West Africa was aimed at the suppression of possible revolts.

101. He went on to speak of the question of the Unholy Alliance and the industrial combines which influenced the policies of the authorities of that part of Africa stretching from Katanga to the Rand. During the debates on the Portuguese Territories and on Southern Rhodesia, several delegations, including his own, had substantiated the charge that South African and Western industrial combines were so powerful they could impose their will on the Governments of the countries in which they operated. Furthermore, those monopolies influenced the policies of the Western Governments in regard to the problems of southern and central Africa. The policy of apartheid was of direct advantage to those foreign groups, particularly those from the United Kingdom, the United States and West Germany, which were dependent on cheap African labour. That policy was even openly advocated in some influential circles in West Germany. According to the 16 January issue of the weekly Vorwärts, General von der Heydte, the Director of the Military Law Institute of the German Federal Republic, had stated that Negroes were incapable of self-discipline, that the greatest mistake of colonial policy had been the failure to annihilate them fifty years before, that it was nonsense to believe in the integration of races, as was proved by the example of North America, and that the policy of apartheid carried out with the utmost strictness was the only solution, for the instinct of the coloured peoples for procreation was too strong.

102. It was particularly shocking that South Africa's policy was supported by some States Members of the United Nations, including three permanent members of the Security Council. That support encouraged South Africa in its attitude of defiance to the United Nations.

103. The main concern of the Committee should be the implementation of resolution 1805 (XVII), which recalled the terms of the Declaration on the granting of independence. The Committee should bear in mind that practically all progress in the protection of dependent peoples had been achieved through political action. The essential aim of the United Nations was not merely the implementation of the terms of the Mandate but the immediate attainment of independence by the Territory, in accordance with the Declaration.

104. Up to the present, all efforts had been directed towards persuading the South African Government to comply with the provisions of the Mandate, the Charter and the General Assembly resolutions. Contrary to the principle of pacta sunt servanda, South Africa had virtually annexed the Mandated Territory; it had violated the international status of the Territory and it refused to recognize the validity of the advisory opinions of the International Court of Justice or any ruling that the Court might give in the case of South West Africa.

105. The time had therefore come for the United Nations to take effective steps to assure the transfer of power to the indigenous inhabitants of South West Africa. In the Polish delegation's view the first step towards that end should be to revoke the Mandate, as suggested by the Special Committee for South West Africa, and to place the Territory under the administration of some African States as a guarantee that independence would be achieved in the most favourable conditions and within the shortest possible time. Such recommendations would be entirely in accordance with resolution 1702 (XVI) and the Declaration on the granting of independence. The Declaration, having been adopted unanimously, represented the will of the United Nations as a whole. It was thus binding upon South Africa as a Member State and had legal consequences for all Non-Self-Governing Territories. The general principle laid down in resolution 1514 (XV) admitted of no exceptions, and the Mandate should accordingly be terminated.

106. The Special Committee should also request the Security Council to impose economic sanctions and other measures upon South Africa. The Organization and all Member States should be prepared, collectively and individually, to assist the indigenous people of South West Africa, who looked to the United Nations for their salvation. Indeed, it was a matter of defending the Organization itself against a challenge to its purposes and principles.

107. The representative of Iraq observed that the failure of the United Nations to solve the problem of South West Africa, which was one of the most tragic ever examined by the Organization, was wholly due to the stubbornness of the racist Government of South Africa. That country had been given the sacred trust of administering the Territory so as to guide it to independence. However, it had failed to enact any measure or to undertake any programme to prepare for that outcome. Indeed its policy had had the opposite aim in view. The declared policy of the Verwoerd Government was to prevent any measure from being taken that might impair the economic system which kept that Government in power. By the General Law Amendment Act of 1962, the assembly of any group anywhere could be prohibited if the Minister of Justice saw fit. Provisions of that kind did away with the last vestiges of freedom, and the Government of South Africa would go down in history as one of the most totalitarian and oppressive regimes of modern times.

108. Conditions in South West Africa had been exhaustively discussed in the United Nations and there was consequently no need to describe them. Furthermore, the Committee had been entrusted with the task of applying the provisions of resolutions 1514 (XV), 1702 (XVI) and 1805 (XVII) to the Territory. The petitioners heard by the Committee during the previous week had rightly stated that the submission or collection of information was no longer pertinent as matters stood today. Something must be done, and quickly, before the situation in South West Africa and South Africa exploded into one of the most violent wars imaginable. Rumblings could already be heard, and the day would surely come when the people of the Territory, unable to bear tyranny any longer, would revolt.

109. The Minister of Foreign Affairs of South Africa and certain delegations had told the Asian and African countries, with varying degrees of frankness, that they were unreasonable in their demands and recommendations. It was precisely because those countries were aware of their responsibilities to the United Nations and to mankind as a whole that they had repeatedly called for the adoption of measures to ensure that freedom was granted to the people of South West Africa before the situation deteriorated to such an extent as to endanger world peace and security. Care must be taken to avert a repetition in South West Africa of events that had occurred in another part of Africa.

110. If all support were denied to the racist regimes based on an alliance between the White settlers in South Africa, Southern Rhodesia and Angola - an alliance designed to keep that part of Africa under White rule, mainly through powerful economic monopolies buttressed from abroad - that would be sufficient to induce those regimes to reconsider their policy. It was futile to condemn apartheid and the policy of racial supremacy while continuing to give those regimes economic and military aid. Such a course could only damage the prestige and effectiveness of the United Nations, prevent the implementation of its resolutions and play into the hands of the South African Government which had boasted of the failure of the economic boycott recommended by the General Assembly the previous year.

111. In view of the South African Government's obstinate refusal to take part in negotiations and its recent rejection of the appointment of a United Nations Resident Representative for Technical Assistance in South West Africa, it was clear that nothing further could be attempted on those lines.

112. The independent African countries had taken giant strides forward and the wind of freedom was sweeping over the whole continent. Therefore, the white racists could not hope to maintain their rule indefinitely, and the United Nations could not remain an indifferent witness of the increasingly harsh oppression to which the South African Government was subjecting the people of South West Africa.

113. In the circumstances her delegation believed that the Security Council should examine the question as a threat to world peace, and take appropriate action under the Charter. It also believed that the General Assembly should revoke the Mandate conferred on South Africa, and that the United Nations itself should

administer the Territory pending the transfer of power, after elections based on universal suffrage, to a Legislative Assembly in accordance with the provisions of General Assembly resolution 1702 (XVI). In the meantime the United Nations should undertake an extensive programme of technical assistance to South West Africa, in which all the appropriate organs of the United Nations would take part and to which the specialized agencies would be invited to contribute. In her delegation's view, that was the only course to adopt, now that all other methods had failed.

114. The representative of Denmark recalled that his delegation had frequently expressed before other United Nations bodies, the fullest sympathy with the wishes and aspirations of the people of South West Africa, whose tragic plight and fervent desire for freedom and independence had been made very clear in the many reports on the question and in the statements of petitioners.

115. The Danish delegation recognized that, as the International Court of Justice had declared, South West Africa was an international Territory, and that the Government of South Africa was not living up to its obligations to that Territory as Mandatory Power. The Danish delegation considered that, as was pointed out in the report of the Special Committee for South West Africa, the policy followed by the South African Government in its administration of the Mandated Territory was in contradiction with the principles and purposes of the Mandate, the Charter of the United Nations, the Universal Declaration of Human Rights and the enlightened conscience of mankind.^{14/} His delegation felt, in particular, that the South African Government had not fulfilled its obligation, under article 2 of the Mandate, to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Territory. The South African Government had failed in its duty particularly by pursuing its policy of apartheid, which the Danish delegation, like others, condemned as abominable, grotesque and indefensible.

116. There was no difficulty in defining the objectives to be sought in the matter of South West Africa; the foremost objective was to ensure that the inhabitants of the Territory were able to exercise their right to self-determination and achieve their independence. That was the very purpose of resolutions 1514 (XV)

^{14/} A/5212, para. 19 (42)

and 1564 (XV). It was more difficult, however, to outline ways and means of attaining that objective. Whatever action the Committee decided to take, it must not forget that proceedings were pending before the International Court of Justice. Although the Danish delegation in no way subscribed to the sub judice argument advanced by the South African Government, it considered that the Committee should avoid taking any decision which might prejudice the matter pending before the Court.

117. As to the revocation by the United Nations of the Mandate conferred on the Government of South Africa, the Danish delegation felt that the question had not been sufficiently studied and that such a step might be dangerous unless it was combined with a guarantee that the United Nations would take over the administration of the Territory immediately upon revocation and prepare the people for independence. That point had been made by the Committee on South West Africa in its report to the General Assembly at its sixteenth session.

118. In his delegation's opinion, efforts should be made to establish a United Nations presence in South West Africa. An attempt to do so had been made in 1962, when the Chairman and Vice-Chairman of the Special Committee for South West Africa had gone to the Territory. The Danish delegation had hoped that that would not be an isolated event but would mark the beginning of a new approach to the question; in its view, the Committee might do well to explore all the possibilities for action on those lines.

119. The question of South West Africa should also be considered in connexion with operative paragraph 3 of resolution 1805 (XVII), in which the Assembly requested the Special Committee "to discharge, mutatis mutandis, the tasks assigned to the Special Committee for South West Africa by resolution 1702 (XVI), taking into consideration the special responsibilities of the United Nations with regard to the Territory of South West Africa". He wished to draw attention not only to the general terms of reference of the Special Committee for South West Africa, as outlined in resolution 1702 (XVI), but also to the fact that, by virtue of that resolution, that Committee had taken over the terms of reference of the former Committee on South West Africa as given in resolution 749 (VIII). In that resolution the Committee on South West Africa had been requested to examine information and documentation concerning South West Africa, as had been done by the Permanent Mandates Commission of the League of Nations, and to report to the General Assembly on conditions in the Territory.

120. The representative of Venezuela said that the question of South West Africa was only one aspect of an even more complex problem which faced the United Nations because of a Member State's policy of racial discrimination and the intransigence it was displaying. Ever since the foundation of the United Nations, South Africa had opposed any intervention by those who had a prime responsibility for the destinies of South West Africa. It had thus flouted the authority of the international community, which had given it a Mandate to administer the Territory under the Covenant of the League of Nations, and later under the Charter. There had, after all, been no interruption between the provisions of article 22 of the Covenant and those of Chapters XI and XII of the Charter.

121. In conformity with Article 77 of the Charter, a Trusteeship Agreement ought to have been negotiated between the Mandatory Power and the United Nations, but South Africa had refused to comply. Nevertheless, the international juridical status of the Territory, which had been the subject of numerous debates both in the United Nations and before the International Court of Justice, was not open to question. The Court, in its advisory opinion of 11 July 1950, had confirmed the existence of the Mandate and of obligations binding upon the Mandatory Power, and that opinion had recently been reinforced by the preliminary conclusions of the Court, dated 21 December 1962, on the action brought before it by Ethiopia and Liberia. The Mandate stipulated, inter alia, in article 2, that the Mandatory should promote the material and moral well-being and the social progress of the inhabitants of the Territory. It was not surprising that South Africa, in its disregard for the provisions of the Charter, had refused to submit periodic reports on the Territory under its administration.

122. The Committee on South West Africa had noted, in its report to the General Assembly at its sixteenth session, that South Africa had consistently applied two basic policies: firstly, the ruthless application of the policy of apartheid in all aspects of life of the Native inhabitants; and, secondly, the obvious attempt to annex the Mandated Territory instead of developing it towards self-government or independence in accordance with the wishes of the peoples thereof^{15/}

^{15/} A/4957, para. 270.

123. He recalled in that connexion the encyclical Pacem in Terris which Pope John XXIII had recently addressed to men of goodwill throughout the world and in which he condemned colonialism and political domination based on racism and affirmed that all political communities were equal, because they were made up of human beings equal one to the other.
124. The intransigence of the South African Government, together with the absence of practical decisions by the United Nations, was apt to lead to a desperate situation offering no way out save through violence. The Committee on South West Africa had already pointed out that the situation had grown from bad to worse and that only intervention by the United Nations along the lines recommended by the Committee could prevent armed racial conflict in Africa. The Special Committee for South West Africa, in its report to the General Assembly at its seventeenth session, had concluded that it was imperative that the United Nations should take firm and resolute action on the question.
125. The South African Government stubbornly refused to acknowledge that the United Nations had any right to make its presence felt in South West Africa, and it had refused only recently to agree to the appointment of a United Nations Technical Assistance Representative in the Territory. Consequently, the Venezuelan delegation believed that the Committee should not confine itself to proposing yet another resolution, but that it had a moral obligation to request the Assembly to use the powers vested in it by the Charter, particularly in Articles 10, 16 and 85, to terminate the Mandate. Recalling that under the terms of resolution 1805 (XVII), the Committee must report on the question to the Assembly at its eighteenth session, he suggested that it should recommend the Assembly to consider terminating the Mandate and placing the Territory of South West Africa under the Trusteeship System, with the United Nations directly assuming the responsibility for the Territory and its people.
126. He hoped that the United Nations would rise to its tasks, so that men, in accordance with the wishes expressed by the Pope in his encyclical, might one day find in the United Nations an effective safeguard of the rights which they derived from their dignity as human beings.
127. The representative of Bulgaria observed that the question of South West Africa had been discussed in the United Nations since 1946 and that numerous resolutions had been adopted on the subject by the General Assembly, only to be

completely disregarded by the South African Government. That Government had introduced into the Territory entrusted to its care a system of administration based on apartheid which was totally incompatible with the provisions of the Mandate, with the Charter of the United Nations and with the Universal Declaration of Human Rights. That policy had created in South West Africa a dangerous situation that was a serious threat to peace and security on the African continent and throughout the world.

128. In a number of resolutions, including resolutions 1702 (XVI) and 1805 (XVII), the General Assembly had reaffirmed the inalienable right of the people of South West Africa to independence and national sovereignty. The South African Government, which obstinately maintained that the Mandate for South West Africa had ended with the disappearance of the League of Nations, had refused to comply with the provisions of resolution 1702 (XVI), which requested it to evacuate the military forces of the Republic of South Africa from the Territory, to release all political prisoners, to repeal all laws or regulations confining the indigenous inhabitants in reserves and to make preparations for general elections to a legislative assembly, based on universal adult suffrage. The South African Government had even refused to have a United Nations Technical Assistance Resident Representative for the Territory as provided in resolution 1805 (XVII). In those circumstances, it was not surprising that the situation in the Territory had deteriorated even further.

129. In the view of the Bulgarian delegation, the Committee should look into the reasons for the South African Government's obstinate refusal to comply with the recommendations of the United Nations concerning South West Africa. In common with many other delegations, the Bulgarian delegation was convinced that one of the main reasons for the failure of the United Nations in that respect was the financial, military and moral encouragement which the South African Government was receiving from the Western Powers. Those Powers had invested a considerable amount of capital - about £1,000 million in the case of the United Kingdom - and their interests dictated a policy of moderation and the prevention of energetic action by the United Nations. The Bulgarian delegation considered that the Special Committee should draw the attention of the General Assembly to the harmful role that was being played by Western monopolies in the question of South West Africa.

130. With the rapid disintegration of the colonial system in Africa, it was obvious that no power in the world could long preserve the colonial system existing in South West Africa. The South African Government alone refused to bow to the evidence and was building up its military strength, which had more than doubled over the past two years. Its armed forces were equipped with the most up-to-date weapons, supplied by the United Kingdom, France and other Western Powers, in defiance of the appeal made by the United Nations in resolution 1805 (XVII). The Committee, whose task it was to seek ways and means of enabling the Territory of South West Africa to attain independence as speedily as possible, must realize that the time for persuasion and moral pressure had passed, and that decisive action was now called for.

131. In view of those considerations, the Bulgarian delegation considered that the Special Committee should recommend to the General Assembly the revocation of the Mandate by which South Africa had been entrusted with the administration of South West Africa. It should also request the Security Council to consider the question and to apply economic and other sanctions against South Africa. It should also recommend that the General Assembly should request all Member States to assist the indigenous population of South West Africa in its struggle for independence. The Bulgarian delegation would support any recommendation that might prove a means of effectively assisting the people of South West Africa.

132. The representative of Chile said that the gravity of the situation in South West Africa was illustrated by the fact that, during the previous year, the Special Committee for South West Africa, the Committee of Seventeen and the General Assembly had all discussed the question and that, in resolution 1805 (XVII), the Assembly had expressed deep concern over the critical situation in South West Africa, the continuance of which constituted a serious threat to international peace and security. It was particularly shocking that South Africa should continue to defy United Nations resolutions, since the Territory of South West Africa had been entrusted to it under an international Mandate, as had been confirmed by the International Court of Justice. The situation prevailing in the Territory was a tragic one; the inhabitants were being deprived of the most elementary freedoms and were completely subjugated by a white minority. There had, in fact, been a virtual annexation of South West Africa by South Africa.

133. Quite apart from the Mandate, and having regard to the obligations of the Committee, South West Africa was a Territory that had not yet attained independence. The Committee should therefore seek the most appropriate ways and means of ensuring that it did so as quickly as possible.

134. In 1962, the Special Committee had already stated that it considered the time had come for the United Nations to take urgent, positive action including the possibility of sanctions against South Africa^{16/}. The Chilean delegation felt that the Committee should insist that the Assembly's resolutions on the Territory should be applied, and particularly resolution 1702 (XVI) and resolution 1805 (XVII), which requested the Secretary-General to appoint a United Nations Technical Assistance Resident Representative for South West Africa and to take all necessary steps to establish an effective United Nations presence in the Territory. The appointment of a Resident Representative had been resisted by the Mandatory Power, which, as a consequence, was not only failing in its most elementary obligations, but was preventing the Organization from carrying out its own obligations. If the application of those resolutions proved to be impossible because the Mandatory Power continued to refuse to co-operate in any way, the Chilean delegation considered that the time had come to report the matter to the Security Council, for if the situation continued, it would constitute a threat to international peace and security.

135. In conclusion, he recalled that the Committee had stated in its report for 1962 to the Assembly^{17/} that the virtual annexation of South West Africa, and the extension of the system of administration based on apartheid were totally illegal and immoral and in violation of the Mandate of the League of Nations undertaken by South Africa and the Charter of the United Nations.

136. The representative of Madagascar said that although the United Nations had been dealing with the question of South West Africa for seventeen years, the problem had not only persisted but had actually become so acute as to create an explosive situation. It was disquieting to see countries like Portugal or

^{16/} A/5238, chapter IX, para. 124.

^{17/} Ibid., para. 122.

South Africa, which were Members of the United Nations, attempting to assimilate other peoples just when the winds of independence were making themselves so strongly felt in Africa.

137. The idea of a mandate had been a generous idea, which, according to the intention of the League of Nations, had been unambiguous and had constituted a sacred trust. However, to General Smuts the Mandate had merely suggested the possibility of annexation and of introducing the abominable policy of apartheid into the Territory, which had been placed in category C - the classification reserved for territories that were considered to have barely emerged from the Stone Age. In spite of the advisory opinion of the International Court of Justice of 11 July 1950 to the effect that South Africa was still bound by the obligations flowing from the Mandate, South Africa had refused to submit to international supervision by the United Nations as the successor to the League of Nations.

138. In the view of the Malagasy delegation, the Mandatory Power, which was an agent of the international community, had not fulfilled its obligations towards the latter. Accordingly, the Committee, which was responsible for taking the measures necessary to prepare the people of South West Africa for independence, should recommend that the Mandate given to South Africa should be withdrawn and entrusted to the United Nations Trusteeship Council, which would do all in its power to lead the country to independence in an atmosphere of calm, as provided in General Assembly resolutions 1514 (XV) and 1702 (XVI).

139. The Malagasy delegation understood and respected the scruples of those delegations which had pointed to the legal difficulties entailed in revoking the Mandate and which felt that the Organization should bide its time, since proceedings were pending before the International Court of Justice. Without wishing to enter into legal details or to discuss whether the Mandate in question was a bilateral treaty or whether it belonged to the category of treaty-contracts or treaty-laws, he considered that the matter was simply a question of common sense. The whole concept of a mandate implied the idea of trust, and its non-fulfilment meant that the Mandatory Power should surrender the Mandate that had been entrusted to it.

140. The question of South West Africa was one of exceptional urgency. The United Nations had done everything possible to facilitate co-operation on the part of South Africa, and quite recently, after the adoption of General Assembly resolution 1805 (XVII), the Secretary-General had asked South Africa to approve the appointment of a United Nations Technical Assistance Resident Representative for South West Africa. In every case, those attempts had met with a refusal by South Africa. Hence, there was nothing further to be hoped for from that Government. In view of the adoption of resolutions 1702 (XVI), 1805 (XVII) and 1514 (XV), the United Nations should thus be entitled, after the termination of the Mandate, to request that immediate steps should be taken to transfer all powers to the people of the Territory of South West Africa, in accordance with their wishes and freely expressed aspirations, so that they might enjoy independence.

141. The representative of Tunisia said that, as one of the petitioners had remarked, the time for reviewing the general situation in South West Africa had passed. The latest communication from the South African Government to the Secretary-General made it quite clear that that Government had no intention of making the slightest effort towards conciliation and co-operation, even in the matter of technical assistance. Its refusal in the latter connexion was particularly significant. All attempts to maintain contact with the de facto authority in South West Africa, even in ways which in no way affected the legal position it had taken up, had met with failure.

142. That left another avenue open: that of legal action. There again, unfortunately, the South African Government did not appear willing to accept the judgement of the International Court of Justice if that judgement went against its case. It was certainly a matter for satisfaction that the Court had rejected the preliminary objections raised by South Africa, but the Tunisian delegation felt that no time should be lost in taking any steps calculated to improve conditions for the inhabitants of South West Africa, for it was obvious that South Africa attached no importance to the final judgement of the Court.

143. The problem was thus reduced to practical considerations. It remained to consider what means the United Nations had at its disposal; not sufficient at all events, to impose a solution on the South African Government. The means provided

by the Charter could be brought to bear only with the co-operation of all the great Powers, which could not be taken entirely for granted. Thus, as one of the petitioners had pointed out, the economic boycott called for in resolution 1761 (XVII) had proved ineffective.

144. His delegation would therefore favour the submission by the Committee to the Security Council, and/or the General Assembly, of a request for economic and diplomatic sanctions against South Africa on the grounds of its policy towards South West Africa. His delegation considered that a specialized technical organ should be established at the same time, to report on the application of those sanctions. The names of any countries aiding and abetting South Africa's policy would thus be made known, and effective moral pressure could be brought to bear on them, especially if they continued to supply South Africa with arms.

145. In that connexion, the attitude of the Western great Powers would be decisive. That applied particularly to the United Kingdom: in the first place, the Mandate for South West Africa had originally been entrusted to His Britannic Majesty, and in the second place, there were Territories in the immediate vicinity which were under United Kingdom jurisdiction and whose authorities had been implicated with those of South Africa in the inhuman measures taken against the South West African population. His delegation therefore appealed to the Western great Powers to realize the gravity of the situation. No one could talk about freedom and at the same time tolerate, or sometimes even encourage, the state of affairs that prevailed in South West Africa and in central and southern Africa as a whole.

146. In addition to an economic and diplomatic boycott, even more positive measures should be considered. The Conference of Heads of African States at Addis Ababa would devote much of its attention to working out such measures. In the United Nations there was for the time being only one step to take: recourse to the Security Council, which could call for more direct action. That should be tried, even without an assurance of co-operation from the great Powers most directly concerned. The Committee could begin considering there and then the referral to the Council, either of the question of South West Africa alone, or of the wider question of colonial and racist domination over central and southern Africa and of the threat to international peace and security.

147. If the result was another failure, the population of South West Africa would be left with no choice but to take up arms. Recent history showed that some Powers did not appreciate the gravity of a colonial problem until a certain casualty

figure was reached. Next time, however, the race war which threatened to break out in the southern part of Africa might shatter beyond repair the chances of fruitful future co-operation.

148. The situation gave no grounds for optimism. The chief culprit was South Africa, but other Governments also bore a share of the responsibility because of their passive attitude. His delegation was prepared to support any recommendation that might move the question of South West Africa out of its present rut.

149. The representative of Syria said that the laudable efforts made by the United Nations to solve the problem of South West Africa had made no change in the Territory's situation. That situation would not change one iota if the approach remained unchanged.

150. It had been clear from the outset that the main obstacle was South Africa's desire to annex the Mandated Territory. In practice South West Africa was ruled like a province of South Africa, and its people shared the lot of the Africans within the Republic.

151. Irrefutable arguments had been adduced to show that South Africa was administering the Territory in flagrant violation of the League of Nations Mandate. In addition, the Mandatory Power was not living up to its obligations as a Member of the United Nations. The most recent evidence of that was the report submitted by the Chairman and Vice-Chairman of the Special Committee for South West Africa in 1962, which stated that the administration of the Mandated Territory continued to be pervaded by the rigorous application of apartheid in all aspects of life of the African population; that the policies and objectives of the South African Government continued to be in utter contradiction with the principles and purposes of the Mandate, the Charter of the United Nations and the Universal Declaration of Human Rights; and that the South African Government had revealed no plans to institute reforms in its administration.^{18/}

152. In his delegation's view, the problem was not whether the Government of South Africa could be induced to adopt a more constructive policy, but whether it was entitled to continue administering the Territory. That it had no intention of honouring its obligations to lead South West Africa to independence was beyond any doubt, for otherwise it would not have resorted to innumerable legal manoeuvres in

18/ A/5212, para. 19 (42).

order to remain outside the purview of the international control in which the Mandate System was based. It was now arguing that the case was sub judice, but there was no indication that it was ready to declare itself bound by the judgement of the International Court, or to comply with that judgement.

153. The United Nations had reached a point where it could no longer place any trust in the South African Government. Many suggestions on how to solve the problem had been offered by members of the Committee and by the Special Committee for South West Africa. His delegation found all those suggestions constructive in principle but considered it advisable that a sub-committee should be established immediately to examine them carefully and to report to the Special Committee in the near future on the most effective measures.

154. The representative of the United States of America said that few problems had received more attention in the United Nations than that of South West Africa. Even now the Organization was awaiting from the International Court of Justice a judgement which, everyone hoped, would help to promote a satisfactory solution.

155. The United States Government's view was that South Africa had not been acting in accordance with its international obligations. The Mandate for South West Africa had been intended to help advance the social, economic and material status of the Territory, looking to the day when it might be accorded self-government. That was a sacred trust, and in that connexion South Africa still possessed obligations to the international community which was now represented by the United Nations. If the Mandate had lapsed, as South Africa contended, then so had the authority of the Mandatory Power; the position that South Africa could maintain its rights while escaping its obligations was untenable.

156. His delegation had consistently voted in favour of resolutions calling upon South Africa to fulfil its obligations and had condemned the shameful policy of apartheid, a system of bondage that South Africa not only practised within its own borders but had also exported to South West Africa, while vainly attempting to screen the Territory from the rest of the world.

157. The United States delegation had stated in the Fourth Committee in November 1962 that only redoubled efforts to achieve a peaceful solution in accordance with the Purposes and Principles of the Charter offered hope for a

satisfactory outcome and that the establishment of a United Nations presence in the Territory would be a constructive step in that direction. It regretted the South African Government's reply to the Secretary-General's communication regarding the appointment of a United Nations Technical Assistance Resident Representative for South West Africa. However, South Africa had not rejected the idea outright, and renewed efforts should be made to induce it to accept a United Nations presence at least on a transitory basis.

158. The peoples of all the former Mandated Territories had been accorded the right of self-determination and South West Africa should be no exception. It was to be hoped that the Odendaal Commission, which was referred to in the South African reply to the Secretary-General, would recommend an impressive programme of economic, social and educational improvement which the Government would carry out. There was also work to be done by the United Nations economic and social agencies, and the Organization must continue to press for the co-operation of South Africa in allowing such agencies to help the people of the Mandated Territory. Individual countries could also help, and the United States was proud to have made a number of scholarships available for students from South West Africa. His delegation hoped that, with the co-operation of the Government of South Africa, such an educational programme could be expanded to significant proportions.

159. There must be a solution to the problem of South West Africa, and his delegation would do everything it could to expedite one.

160. The representative of Tanganyika said that his delegation had found much encouragement in the statements made by all the delegations which had spoken so far, and particularly the delegations of Ethiopia, Mali, the Soviet Union, Poland and Iraq. Since South Africa had persistently failed to discharge its international obligations, it had forfeited any political, legal or moral right to exercise any authority whatsoever over South West Africa.

161. The delegations of Mali and the Soviet Union had stressed that the United Nations must act. His delegation endorsed that view, for the prestige of the United Nations and the very existence of the indigenous peoples were at stake. In its opinion the Committee needed no further evidence of the atrocities perpetrated on the indigenous people of South West Africa at the hands of Verwoerd

and his gang. The Committee should now consider what practical measures to recommend to the General Assembly.

162. South Africa's intransigence and persistent refusal to comply with its international obligations could not be accepted. The aim of South Africa's policy was the mass extermination of the African people of the Mandated Territory. It was distributing arms to the White population there and had publicly manifested its intention to annex the Territory. The time had therefore come for the United Nations to reconsider the entire question of membership in the Organization for a country like South Africa.

163. That country could refuse with impunity to discharge its responsibilities only because it was aided and abetted by some great Powers, especially the United Kingdom and the United States, which continued by devious means to supply South Africa with armaments for the purpose of brutally repressing the people of South West Africa in particular and of Africa in general. Moreover, those countries were increasing their trade with South Africa.

164. His delegation called upon those Powers to desist from supporting the Verwoerd regime and to declare publicly that, in the battle which had been joined, they were on the side of justice, human dignity, the African population, international peace and the United Nations.

165. In his opening address to the Afro-Asian Solidarity Conference at Moshi, Mr. Nyerere, the President of the Republic of Tanganyika, had said that the Africans could not be expected to sit back quietly while their brothers in South Africa and South West Africa continued to suffer. No one could be neutral on that issue, and there was no doubt that an effective trade and diplomatic boycott would greatly assist in overthrowing the present tyranny. Yet, the President had added, there were many countries which claimed to support the cause of freedom and equality but which in practice were sabotaging all the efforts of the African peoples in that direction.

166. Tanganyika's delegation, like its President, called upon the States Members of the United Nations, and especially the major Powers, to intensify their trade and diplomatic boycott against the nazi regime in South Africa and urged them to refrain from supplying arms to that country. The Pan-African Freedom Movement

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for East, Central and Southern Africa had adopted at its last Plenary Conference a resolution calling for the implementation of the General Assembly resolution dealing with sanctions against South Africa and the supply of arms to that country. The Conference had urged African States and organizations to regard countries which continued to supply arms to South Africa and maintain normal trade and State relations with that country as unfriendly and hostile. In addition it had appealed to all friendly Governments and peoples to accord the oppressed peoples of South Africa and South West Africa all available assistance in the struggle for liberation. His delegation reiterated that appeal.

167. His delegation recommended the Committee to consider the following measures:

- (1) Member States should be urged to apply and intensify economic and diplomatic sanctions against South Africa. In that connexion the right approach was to be specific. In the case of the United States, for example, the boycott would be effective only if companies like American Metal Climax and Phillipps Bros., or the Boston Wool Trade Association, refrained from using South African raw materials. A similar attitude could be adopted by the United Kingdom.
- (2) The question of South West Africa should be placed on the agenda for the resumed session of the General Assembly in May 1963.
- (3) Member States should be invited to render the indigenous people of South West Africa all available assistance.
- (4) Member States should be required to inform the Secretary-General of the steps they had taken to comply with operative paragraph 8 of resolution 1805 (XVII), with special reference to the supply of arms to South Africa.
- (5) Despite the refusal of South Africa to accept the appointment of a Technical Assistance Resident Representative for South West Africa, the Secretary-General should explore other means as appropriate, including referral to the Security Council, in order to secure a United Nations presence in the Mandated Territory.
- (6) If the South African Government persisted in its intransigence, the entire question of South Africa's participation in the work of the Organization should be brought before the General Assembly and the Security Council for immediate review.

168. His delegation was convinced that the Committee would not rest until the shameful situation prevailing in South West Africa was brought to an end and the settler Government was replaced by a Government representative of the peoples of the Territory.

169. The representative of the United Kingdom recalled that his delegation had made it clear on many previous occasions that the United Kingdom Government deplored the system of apartheid. The mere existence of that system in South West Africa was a sufficiently grave charge against the South African Government; to exaggerate that charge by allegations of threats to peace and of genocide was to weaken it.

170. The Committee's objective must be a limited one because the central feature of the whole situation was the case now before the International Court of Justice. It would be unwise to promote any definitive action until the Court had delivered its verdict. As the Danish representative had said, to do so would be to prejudice the final judgement and, in effect, to deny the principles for which the Court stood. In the United Kingdom delegation's view, however, the South African Government should regard itself as bound by whatever ruling the Court might hand down in the case.

171. Since the United Kingdom acknowledged the international character of the administration of South West Africa, it favoured the idea of continuing contact between the United Nations and the South African Government on the question of the Territory. His delegation had thought that there was considerable hope in the willingness of the Government of South Africa to receive representatives of the Special Committee for South West Africa during 1962 and had thought that that might denote a willingness to accept further visits from United Nations representatives. Contact of that kind would be of benefit during the period of preparation for the final exercise of self-determination by the Territory's people. That preparation could take place either under a degree of United Nations supervision or under an improved and reformed administration of the Mandate.

172. His delegation had therefore been disappointed to see that the South African Government was not yet in a position to take a decision regarding the appointment of a United Nations Technical Assistance Resident Representative for the Territory. The South African Government might have been able to accept the

idea of contact of some kind without prejudice to the findings of its own Commission now in the Territory or to the judgement of the International Court of Justice. Nevertheless his delegation did not interpret the South African reply to mean that the door to co-operation with the United Nations had been finally closed. He did not think the Committee should tie the Secretary-General's hands or inhibit him from taking a further initiative in that direction. It was still permissible to hope that, when the South African Government had considered the Odendaal Commission's report, it would revise its attitude to the Secretary-General's offer. For those reasons his delegation felt that it would be unwise to come to any final conclusion before the South African Government had considered that report.

173. Some delegations had alleged during the debate that there were interlocking business interests in southern Africa which formed a sort of super-State and which were able to help maintain, or even to direct, present South African policy towards South West Africa. Those who advanced that argument were unable to produce facts to support it; the essential charge against the South African Government in the context of South West Africa could only be weakened by stories which were irrelevant to the basic problems of the Territory.

174. The representative of Yugoslavia recalled that his delegation had stated, during the debate on the question in 1962, that the time for persuasion and appeals to the Government of South Africa had passed. Since then, reports, resolutions and petitions had been added to the many documents testifying to the efforts made by the Organization during the previous sixteen years. The number of crimes committed by the Government of South Africa against the people of South West Africa had constantly increased; that people was being slowly exterminated in the name of the civilizing mission entrusted to the Government of South Africa; many petitioners had shown that the inhabitants were living in the most deplorable conditions known to history, and that the Government of South Africa had turned the Territory into a huge gaol.

175. The Yugoslav delegation took the side of those demanding decisive action. During the debate, several delegations had submitted specific proposals which offered a basis for a resolution by which the Committee and the United Nations

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could make substantial progress towards a solution of the problem. His delegation would give its full support to any effort in that direction. The time for sterile discussion was passed and the Committee's task was to secure the implementation in the Territory of the Declaration on the granting of independence to colonial countries and peoples, which should inspire the Committee to take the necessary decisions.

176. The representative of Australia said that his delegation shared the concern and the feelings that had been expressed in the Committee by other delegations, especially the general feeling of abhorrence at the policy of apartheid. It too believed that the Government of South Africa should have accepted the obligations inherent in the Mandate which had been conferred upon it and that the object of its administration should be self-determination for the people of South West Africa. There should be an end to racial discrimination, and serious efforts should be made to improve the living conditions of the inhabitants of South West Africa.

177. One of the important features of resolution 1805 (XVII) was that it requested the Secretary-General to open and to keep open a line of contact with the Government of South Africa. His delegation had been disappointed with the response of that Government to the first communication from the Secretary-General. However, it felt that one of the results of the debate should be to encourage the Secretary-General to take other steps to bring the Government of South Africa to agree to some form of United Nations presence in South West Africa.

178. The representative of Iran recalled that his delegation had on several occasions categorically condemned the attitude and policies of the Government of South Africa which had entirely ignored the resolutions of the General Assembly, and had systematically flouted the elementary and basic principles of the United Nations Charter and of the Universal Declaration of Human Rights. In the absence of any new element, a re-examination of the situation in the Territory of South West Africa would not be justified, but his delegation would study carefully any proposals that were made and would support any initiative that might end the sufferings of the people of that Territory.

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179. The representative of India recalled that the report of the Special Committee for South West Africa had stressed the need for further action to bring the South African Government to permit the United Nations to perform its supervisory functions over the Mandated Territory.^{19/} By turning down the appointment of a Technical Assistance Resident Representative for the Territory, the Government of South Africa had once again demonstrated its disregard for its international obligations. South Africa was the only State that had failed to accept the obligations incumbent on it under the Trusteeship System established by the United Nations Charter; by its policy of apartheid, it had condemned the inhabitants of South West Africa to a life of misery, and a country that spurned the Universal Declaration of Human Rights and the Charter and resolutions of the United Nations could not be called a civilized nation. It was the responsibility of every Member of the United Nations to take steps which would make it impossible for that Government to continue to deny the people of South West Africa their inalienable rights.

180. India had not only disapproved of the attitude of the Government of South Africa and condemned it in the severest terms; it had also taken practical steps in proof of its total disapproval. At considerable sacrifice, it had discontinued trade with South Africa sixteen years previously and had had no diplomatic relations with that country since 1954. If similar action was taken by other States, especially those having substantial trade with South Africa, that country would have no option but to heed the resolutions of the United Nations. An economic boycott by a handful of countries was not sufficient; maximum pressure was required in order to isolate South Africa.

181. It had been claimed that the Government of South Africa was improving the lot of the indigenous inhabitants of South West Africa, but the petitioners who had appeared before the Committee had painted an entirely different picture of the situation. Practical steps should be taken to implement resolution 1514 (XV) and to permit South West Africa to emerge as a free and independent nation. His delegation hoped that the South African Government would finally heed the

^{19/} A/5212, paras. 80 and 81.

Committee's warning; it still had a chance of ensuring good-neighbourly relations with a free South West Africa and its other African neighbours by making the radical changes in its policies that the situation demanded.

182. Several delegations had advocated revoking the Mandate. However, his own delegation did not feel that revocation would be the best method of achieving the desired objectives. The International Court of Justice was clearly dealing only with certain legal aspects of the problem, and the United Nations should study ways and means of transferring power to the indigenous people of the Territory. To that end, the Committee might consider sending a sub-committee to visit South Africa and then report back to the Committee. The co-operation of the Mandatory Power would obviously be required, but he hoped that South Africa's friends could persuade it to receive the sub-committee. If the Mandatory Power refused to do so, the Committee could then appeal to the Security Council under paragraph 7 of resolution 1702 (XVI) and paragraph 8 of resolution 1810 (XVII). A debate in the Security Council might then have a salutary effect on the Government of South Africa, particularly if pressure was brought to bear on countries that continued to trade with South Africa thus indirectly making it possible for that country to defy the United Nations and world public opinion.

183. The representative of Uruguay said that his delegation had nothing to add to what it had already stated on numerous occasions regarding the question of South West Africa. As several delegations had pointed out, the Committee's task was to find a final solution to the problem. His delegation supported the proposal to appoint a sub-committee to examine the various suggestions that had been made.

184. The representative of Sierra Leone recalled that at the seventeenth session of the General Assembly, the Minister of External Affairs of Sierra Leone had condemned the attitude of the Government of South Africa. His delegation was among those that advocated a speedy settlement of the question.

D. ACTION TAKEN BY THE SPECIAL COMMITTEE

185. At the 167th meeting of the Special Committee, on 9 May 1963, Cambodia, Iraq, Ivory Coast, Madagascar, Mali, Syria, Tanganyika, Tunisia and Yugoslavia introduced a joint draft resolution,^{20/} the operative part of which read:

"1. Solemnly reaffirms the inalienable right of the people of South West Africa to national independence and sovereignty;

2. Condemns once again the continued refusal of the Government of South Africa to co-operate with the United Nations in the implementation of the principles of the Charter and in carrying out the resolutions of the General Assembly;

3. Requests the General Assembly to declare that any attempt to annex the Territory of South West Africa by South Africa will be considered an act of aggression;

4. Recommends that the General Assembly should take all necessary steps to establish an effective United Nations presence in South West Africa with a view to achieving the objectives of resolution 1702 (XVI), in particular those mentioned in operative paragraph 2, sub-paragraphs (b) to (h);

5. Decides to draw the attention of the Security Council to the situation in South West Africa, the continuance of which is liable to constitute a threat to international peace and security;

6. Further recommends to the General Assembly and to the Security Council to invite all Member States to lend their support for the application of the measures advocated in this resolution;

7. Requests the Secretary-General to continue his efforts with a view to achieving the objectives assigned to him in resolution 1805, in particular that mentioned in operative paragraph 6."

186. At the 168th meeting, the representative of the Union of Soviet Socialist Republics pointed out that there was a difference of substance between the text of operative paragraph 5 of the draft resolution and the seventh preambular paragraph of General Assembly resolution 1805 (XVII), which expressed "deep concern that the continuance of the critical situation in South West Africa constitutes a serious threat to international peace and security". As far as he was aware, nothing had occurred since the date of the adoption of General Assembly resolution 1805 (XVII) which would justify the change and in his delegation's opinion paragraph 5 of the draft resolution should echo the wording of the

General Assembly resolution. He considered that operative paragraph 6 of the draft resolution should refer also to General Assembly resolutions 1702 (XVI) and 1805 (XVII).

187. At the 169th meeting, the representative of Mali, on behalf of the sponsors, introduced a revised draft resolution.^{21/} He explained that the sponsors, taking into account the amendments suggested by the representative of the Union of Soviet Socialist Republics, had revised operative paragraph 5 to provide that the Committee decides to draw the attention of the Security Council "to the critical situation in South West Africa, the continuation of which constitutes a serious threat to international peace and security", and had revised operative paragraph 6 to add a reference to previous resolutions.

188. At the same meeting the revised draft resolution was orally further revised. In particular the eighth preambular paragraph, which stated "Considering the annexationist intentions of the Government of South Africa in respect of the Territory of South West Africa" was replaced by the following:

"Considering that any attempt to annex any part of the whole of the Territory of South West Africa by the Government of South Africa would be contrary to the advisory opinion of the International Court of Justice on 11 July 1950 and would be a violation of its international obligations."

189. The representative of Venezuela expressed the view that the purpose of the ninth preambular paragraph, which would have the Special Committee consider that "any support the Government of South Africa receives from any Power or financial group encourages it to persist in its attitude", was not sufficiently clear. The word "any" appeared to indicate that all support of any kind whatever should be condemned. His delegation would accept that paragraph if it was made clear that what was meant was any support for the policy of apartheid. Otherwise, it would seem to involve sanctions embracing every kind of relationship, and on that matter the Security Council alone was in a position to decide whether or not sanctions should be imposed and what kind of support should be regarded as an encouragement to South Africa to persist in its attitude. Venezuela was firmly opposed to the policy of apartheid and it was anxious that the resolutions adopted by the Committee should be sufficiently clear and explicit to avoid any misinterpretation of their content and true significance.

190. With regard to operative paragraph 3, the representative of Venezuela stated that it was common knowledge that the concept of "aggression" was one of the most controversial issues in international law. For years the League of Nations, and later the United Nations, had tried to find a precise definition of aggression but no agreement had ever been reached on the subject. His delegation did not think that the Committee could state, in a paragraph of a resolution, that not even any act but any attempt would be considered an act of aggression, especially since the power to make such a judgement was vested in the Security Council alone, under Article 39 of the Charter. His delegation considered that the inclusion of such a paragraph in the draft resolution would set a dangerous precedent, the consequences of which would be incalculable.

191. The representative of the United States stated that his delegation was in general agreement with the first eight preambular paragraphs. Regarding the ninth preambular paragraph, his delegation endorsed the remarks of the representative of Venezuela. It supported the wording of that paragraph if it merely expressed opposition to the policy of apartheid of the South African Government, since the United States itself had expressed its opposition to a policy which placed so many people in bondage. It was not sure, however, what was meant by the words "any support" in that paragraph.

192. In operative paragraph 1, his delegation would have preferred the word "self-determination" to be added to the words "independence and sovereignty". There was a possibility that, when the time came, the people of South West Africa might want integration with a neighbouring State and they should be given the opportunity of making that choice.

193. In operative paragraph 2, his delegation would prefer the word "Deplores" rather than "Condemns". It understood the frustration felt by those who had tried to obtain the co-operation of South Africa. Yet the fact remained that the United Nations was still seeking that rapprochement and as long as a possibility, however remote, existed, "Condemns" was not an appropriate word.

194. With regard to operative paragraph 3, his delegation endorsed the very cogent arguments advanced by the representative of Venezuela. The phrase "act of aggression" was a phrase of art which had many implications and it was for the Security Council to determine what constituted an act of aggression. Article 39 of the Charter stated that: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security". The League of Nations had had great difficulty in attempting to define aggression, and in the United Nations the best minds and the best lawyers had been engaged in a similar attempt. Perhaps an expression such as "an unacceptable violation of international law", or some more striking phrase, would have been appropriate in the draft resolution, but the wording actually used should be avoided. In the entire history of the United Nations the phrase "act of aggression" had been used only once in the operative part of a draft resolution, namely at the time of the invasion of Korea by the Chinese Communists. The Committee would therefore be taking a great responsibility upon itself in using that phrase in the case in point.

195. With respect to operative paragraph 4, his delegation assumed that it was the intent of the sponsors that the "necessary steps" referred to in that paragraph would be in accordance with the Charter and would not include the use of armed force.

196. The representative of Sierra Leone considered that the fact that jurists had various interpretations of certain phrases such as "act of aggression" was not a sufficient reason for refraining from using such phrases. Caution should of course be exercised, but no one could deny that bearing in mind the expressed intentions of South Africa towards South West Africa, the utmost patience and care had been exercised so far. Operative paragraph 3 of the draft resolution merely said that if South Africa annexed South West Africa, that would be considered an act of aggression. It was hard to see how that could be a less serious matter for the international conscience than the invasion of Korea. Such a development would be likely to lead to a breach of international peace and would certainly constitute a matter of extreme gravity on the international scene.

197. He stated that the sponsors had considered the matter most carefully before agreeing on the use of the phrase "act of aggression". His delegation was not as hopeful as was the United States delegation that communication with the South African Government was still possible. It considered in fact that the behaviour of that Government had been such as to leave many delegations with a feeling of helplessness in the face of a hopeless situation.

198. With regard to the ninth preambular paragraph, some delegations had sought to draw a distinction, stating that they opposed any extension of the practice of apartheid to South West Africa. The United Nations had, however, adopted resolutions imposing restrictions on dealings with South Africa in matters other than the extension of apartheid and had even referred to sanctions in connexion with other matters and support of any kind given to South Africa. His delegation considered that any support of whatever kind would constitute an encouragement to the South African Government.

199. Finally, with regard to the right of self-determination, he considered that it could be exercised by the population of the Territory as part of the normal exercise of its sovereignty. He considered that the draft resolution, as revised, should receive the support of all delegations.

200. The representative of the Ivory Coast associated himself with this appeal. With regard to the ninth preambular paragraph, there could be no doubt about the fact that no member of the Committee was giving the South African Government any moral support whatsoever. Nevertheless the refusal of some countries to endorse certain resolutions regarding South Africa could have been interpreted by that country as tantamount to moral support. The sponsors of the draft resolution were therefore justified in urging that no support of that kind should be given and that the Committee should form a common front in order to isolate South Africa and induce it to view the situation in a different light. With regard to the economic support given to South Africa, he would not dwell on the question of the competence of the General Assembly, since the latter had already taken a decision which in itself was tantamount to an economic sanction and in so doing had settled the problem of its own competence.

201. With regard to the right of the people of South West Africa to self-determination, it was by no means the intention of the sponsors to prevent that right from being exercised. What the South African Government was seeking was

not association with the Africans or their integration into a greater South Africa, but rather an opportunity to take over the land on which the Africans were living and whence it was trying to expel them. It was hard to imagine, therefore, that the indigenous inhabitants of South West Africa would want to fling themselves into the inferno in which some of their brother Africans were already living. When South West Africa became an independent State, it would be free to exercise its right to associate with any country.

202. Nor did he think that the phrase "act of aggression" should cause anyone concern. The sponsors were merely asking the General Assembly to consider whether it was its own prerogative to determine that an act of aggression had been committed, or whether the question should be referred to the Security Council. Article 39 of the Charter had been invoked, but a comparison of Articles 10 and 12 of the Charter led to the conclusion that the question of competence in that respect had not been finally settled. The General Assembly was competent to consider questions relating to the maintenance of peace and security, save in the case of specific matters which were being dealt with by the Security Council, as was stated in Article 12.

203. In his view, it was necessary to look beyond the immediate problem and override the minor objections that had been raised, in order to consider only the human and tragic aspect of the situation. Once a country had decided to annex another country by force, it was impossible not to define such an act as aggression, regardless of what definition the experts might give of that word. There was no doubt that South West Africa and South Africa were two distinct countries. The sponsors of the draft resolution were convinced that in the present case annexation by force would be an act of aggression. Moreover, the delegations had time in which to ponder the matter and the General Assembly would have the final word. There was consequently nothing to prevent the adoption of the draft resolution.

204. The representative of the Union of Soviet Socialist Republics said that the United States representative's reference to Korea would not stand examination. That was evident from the facts: there were no troops from the People's Republic of China left in Korea, whereas United States troops were officially stationed in that country. However that might be, the recent history of the United Nations provided a more appropriate precedent than that cited by the United States representative. Paragraph 6 of General Assembly resolution 1817 (XVII) on the question of Basutoland, Bechuanaland and Swaziland was worded in the following terms: "Declares solemnly that any attempt to annex Basutoland, Bechuanaland or Swaziland, or to encroach upon their territorial integrity in any way, will be regarded by the United Nations as an act of aggression violating the Charter of the United Nations". That example corresponded more closely with the activities of the Committee and justified the wording used by the sponsors of the draft resolution on South West Africa.

205. The representative of Tanganyika said that for the people of Africa the question of South Africa and South West Africa was an extremely serious one and that in the eyes of the African delegations no language could be strong enough to condemn South Africa's attitude of defiance. When human rights were brutally flouted in other parts of the world, some countries made very strong statements and took appropriate action. When it came to the case of South Africa, however, their attitude was not the same and his delegation felt that those countries did not fully appreciate the African approach to the problem. He strongly urged the members of the Committee to bear the views of the African people in mind, to vote in favour of the draft resolution, and to convey the views of the Africans to the Governments and peoples of their respective countries, so that the regime in South Africa might be finally forced to see reason.

206. The revised draft resolution,^{22/} as orally further revised, was voted upon at the 169th meeting on 10 May 1963, as follows:

The first eight preambular paragraphs were approved by 23 votes to none, with 1 abstention.

The ninth preambular paragraph was approved by a roll-call vote of 17 to none, with 7 abstentions. The voting was as follows:

In favour: Bulgaria, Cambodia, Chile, Ethiopia, India, Iran, Iraq, Ivory Coast, Madagascar, Mali, Poland, Sierra Leone, Syria, Tanganyika, Tunisia, Union of Soviet Socialist Republics, Yugoslavia.

Against: None.

Abstaining: Australia, Denmark, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

The tenth preambular paragraph and operative paragraphs 1 and 2 were approved by 23 votes to none, with 1 abstention.

Operative paragraph 3 was approved by a roll-call vote of 17 to 5, with 2 abstentions. The voting was as follows:

In favour: Bulgaria, Cambodia, Ethiopia, India, Iran, Iraq, Ivory Coast, Madagascar, Mali, Poland, Sierra Leone, Syria, Tanganyika, Tunisia, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Against: Australia, Denmark, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Chile, Venezuela.

Operative paragraph 4 was approved unanimously.

Operative paragraphs 5 and 6 were approved by 19 votes to none, with 4 abstentions.

Operative paragraph 7 was approved unanimously.

The draft resolution as a whole was adopted by 23 votes to none, with 1 abstention.

207. The representative of the United States said that his delegation's vote in favour of the resolution as a whole should not be taken to indicate approval of operative paragraph 3, against which his delegation had voted. His delegation's vote against that paragraph did not mean that it necessarily disagreed with the representative of Sierra Leone and others who had contended that annexation of the Territory might constitute an act of aggression; his delegation had merely felt

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that the term "act of aggression" was very vague and would not necessarily apply to annexation of the Territory, if that should take place.

208. The representative of the United Kingdom said that, while the resolution went some distance towards summarizing the various views expressed on the subject in the Committee, his delegation had reservations both as to the need to adopt any recommendations on the question at that time and as to the text itself.

209. His delegation felt that the fourth preambular paragraph (see paragraph 213 below) did not fully reflect the existing situation, since the South African Government had made only a provisional reply to the proposal concerning a Technical Assistance Representative and might make a more positive response after it had considered the report of the Odendaal Commission. His delegation would therefore have preferred that the words "so far" should be inserted between the words "in particular" and the word "refused". Since his delegation considered the eighth preambular paragraph to be of a legal character, it had felt unable to vote either for or against it without expert advice, which had not been available at the time. His delegation shared the doubts expressed by other delegations with regard to the ninth preambular paragraph. If that paragraph was intended to imply a threat of sanctions, his delegation had already stated its objections in that regard on a number of occasions. The tenth preambular paragraph and operative paragraph 1 did not contain anything that had not previously been adopted by the General Assembly. His delegation had voted for resolution 1805 (XVII), which contained the substance of operative paragraph 1; at the time, however, his delegation had made a reservation about the wording of operative paragraph 1 of that resolution which was applicable in the present case as well. Operative paragraph 3 was, in the view of his delegation, open to grave objection on the grounds already indicated by the representatives of Venezuela and the United States. With regard to operative paragraphs 5 and 6, his delegation felt that, since nothing constituting a threat to peace and security had occurred since the adoption of resolution 1805 (XVII) in December 1962, the Committee was not justified in referring the matter to the Security Council.

210. He regretted that, for the reasons indicated, his delegation had been unable to support the resolution; it had, however, abstained from the vote on it

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since in its view it contained constructive elements, particularly operative paragraphs 4 and 7.

211. The representative of Denmark said that his delegation had voted for the draft resolution in order to express its full agreement with the sponsors' views and approach as well as its strong disagreement with the policy pursued by the South African Government with regard to South West Africa. His delegation had, however, been unable to support certain provisions of the resolution. It shared the view of the representative of Venezuela with regard to the ninth preambular paragraph, which it felt was worded in too sweeping a manner. His delegation had voted against operative paragraph 3 because, as other delegations had observed, it prejudged the question of defining what constituted an act of aggression. That was an extremely complex question which had not yet been settled and for whose study the General Assembly had set up a special subsidiary body. His delegation also felt that the paragraph was worded rather ambiguously, in that it referred not to annexation but to an attempt at annexation, without indicating what would constitute such an attempt. Finally, his delegation had abstained from the vote on operative paragraphs 5 and 6 in conformity with the attitude it had taken towards the resolution recently adopted by the Committee with regard to the Portuguese territories. It felt now, as it had on that occasion, that it was not for the Committee to take action with regard to the Security Council; moreover, it was not fully convinced that the requirements for recourse to the Council had been met in the present instance.

212. The representative of Australia said that his delegation had voted against operative paragraph 3 because it raised very serious juridical and constitutional problems which went far beyond the immediate scope of the resolution. It had abstained on certain other paragraphs, in particular preambular paragraph 9 and operative paragraphs 5 and 6. The reason, particularly in the case of operative paragraph 5, was that, in his view, recourse to the Security Council was not entirely justified in the circumstances and might be considered an infringement of the authority of the International Court of Justice, which was dealing with the question of the administration of the Mandate for South West Africa. Nevertheless, his delegation had voted in favour of the resolution as a whole, in sympathy with the spirit which had inspired that resolution and because of its

position, which it had already stated on numerous occasions, concerning South Africa's policy.

213. The resolution adopted by the Special Committee on 10 May 1963,^{23/} reads as follows:

"The Special Committee,

Having considered the question of South West Africa,

Bearing in mind the principles of the Declaration on the granting of independence to colonial countries and peoples set forth in resolution 1514 (XV) of 14 December 1960,

Recalling all the resolutions of the General Assembly relating to South West Africa, in particular resolutions 1702 (XVI) of 19 December 1961 and 1805 (XVII) of 14 December 1962,

Regretting that the Government of South Africa has taken no steps to implement the resolutions of the General Assembly on South West Africa and has, in particular, refused to allow a United Nations Technical Assistance Resident Representative to be stationed in the Territory,

Deploring the refusal of South Africa to co-operate with the Special Committee of Twenty-Four despite the latter's invitation to South Africa to attend its discussions on the question of South West Africa,

Noting with deep concern the continued deterioration of the situation in South West Africa as a result of the intensification of the policy of apartheid, which has been the subject of general disapproval,

Considering with regret that the Government of South Africa has consciously and deliberately failed to discharge its international obligations in the administration of South West Africa,

Considering that any attempt to annex any part or the whole of the Territory of South West Africa by the Government of South Africa would be contrary to the advisory opinion of the International Court of Justice of 11 July 1950 and would be a violation of its international obligations,

Considering that any support the Government of South Africa receives from any Power or financial group encourages it to persist in its attitude,

Taking into consideration the special responsibilities of the United Nations with regard to that Territory,

1. Solemnly reaffirms the inalienable right of the people of South West Africa to national independence and sovereignty;

2. Condemns once again the continued refusal of the Government of South Africa to co-operate with the United Nations in the implementation of the principles of the Charter and in carrying out the resolutions of the General Assembly;

3. Recommends that the General Assembly consider any attempt to annex the Territory of South West Africa by South Africa as an act of aggression;

4. Recommends that the General Assembly should take all necessary steps to establish an effective United Nations presence in South West Africa with a view to achieving the objectives of resolution 1702 (XVI), in particular those mentioned in operative paragraph 2, sub-paragraphs (b) to (h);

5. Decides to draw the attention of the Security Council to the critical situation in South West Africa, the continuation of which constitutes a serious threat to international peace and security;

6. Further recommends to the General Assembly and to the Security Council to invite all Member States to lend their support for the application of the measures advocated in this resolution and in the previous resolutions;

7. Requests the Secretary-General to continue his efforts with a view to achieving the objectives assigned to him in resolution 1805 (XVII), in particular that mentioned in operative paragraph 6 thereof."

214. By letter dated 14 May 1963, the Secretary-General transmitted the text of this resolution to the Security Council.^{24/}

