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TWENTY-FIFTH YEAR

1550th MEETING: 29 JULY 1970

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FIFTEEN HUNDRED AND FIFTIETH MEETING

Held in New York on Wednesday, 29 July 1970, at 3.30 p.m.

President: Mr. G. SEVILLA SACASA (Nicaragua).

Present: The representatives of the following States: Burundi, China, Colombia, Finland, France, Nepal, Nicaragua, Poland, Sierra Leone, Spain, Syria, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Zambia.

Provisional agenda (S/Agenda/1550)

1. Adoption of the agenda.
2. The situation in Namibia:
 - (a) Report of the *ad hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970) (S/9863);
 - (b) Letter dated 22 July 1970 from the Permanent Representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia to the United Nations addressed to the President of the Security Council (S/9886)

Adoption of the agenda

The agenda was adopted.

The situation in Namibia:

- (a) Report of the *ad hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970) (S/9863);
- (b) Letter dated 22 July 1970 from the Permanent Representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia to the United Nations addressed to the President of the Security Council (S/9886)

1. The PRESIDENT (*interpretation from Spanish*): Before opening the debate, I should like to call the attention of representatives to the fact that two draft resolutions have been submitted to the Council for consideration. The first is sponsored jointly by Burundi, Finland, Nepal, Sierra Leone and Zambia [S/9891], and the second is sponsored by Finland [S/9892].

2. Mr. TERENCE (Burundi) (*interpretation from French*): Another slap in the face, like those the Pretoria régime has been constantly giving the Security Council, forces us to meet again after a brief interval of barely one week. Twice in seven days, Mr. President, you have been called upon to preside over meetings dealing with the policies of *apartheid*. The militaristic voracity of the Government of South Africa is truly a source of a future world conflagration. Casual or indifferent observers may feel that the denunciation of the

greedy military appetite of Pretoria is an exaggerated overrating of the danger. However, the military expansion of South Africa has reached enormous proportions, showing a monstrous rapacity.

3. Irrefutable facts suffice to give an idea of the unbelievable military apparatus which the South African Government has acquired. The colossal armament of Pretoria is the chief cause of its refusal to evacuate Namibia and the principle instrument of its tyranny unleashed against the Namibian people, whose fate cannot be discussed and deplored without giving the statistics of the enormous military machine that has been set up to deny the right of self-determination to the Africans in that Territory.

4. The figures and data that I shall submit are based upon a study of a rich documentation, a combination of United Nations reports and a work entitled *Armed Forces in Africa* of the Institute of Strategic Studies in London. The statistics date in most cases from 1967.

5. First, the air force. Approximately 600 aircraft of various types, from reconnaissance aircraft such as the Mirage RZ, up to supersonic fighter-bomber jets, such as the Mirage 3CZ, armed with air-to-surface weapons; many hundreds of helicopters of various types; some 700 officers; 550 airmen and NCOs.

6. Secondly, the army. In five years credits for the production of munitions have increased more than one hundredfold, from R368,000 in 1961 to R44,900,000 in 1967. There are 1,332 officers and enlisted men, and the equipment of the army includes Sherman, Comet and Centurion tanks and Panhard armoured vehicles. As was stated by the South African commander-in-chief, Hiemstra, as early as in 1966, his country was on the point of producing 140 different types of ammunition, bombs and infantry weapons of a quality equal to that of the best foreign producers. C. Pandorf, an American nuclear physicist, revealed on 5 March 1967, in Salisbury, that thenceforth South Africa had the necessary technical means to produce nuclear weapons.

7. Thirdly, the navy: 368 officers, 2,825 seamen and NCOs; over 35 units. On 19 April 1967, Mr. Botha, who is called the Minister of Defence but who should actually be called the Minister of War, announced that an order had been placed for three French seagoing submarines of the Daphné type. The price was R8 million. Each submarine has twelve torpedo tubes and is manned by six officers and thirty-nine men. The South African Government has begun the work of installing a radar-controlled navigation system

along the coastline of Namibia, capable of determining the position of ships at sea to within twenty-five metres.

8. The cost of this gigantic operation has been estimated at about R6 million. The permanent armed forces numbered 17,000 men in 1967 and this number has tripled since. But there is also the task force which is used for interventions and is in fact an integral part of the army and is composed of the troops which have received the best training and are equipped with the latest weapons, covered by air protection. These units can intervene anywhere at any time. The strength of this task force is secret.

9. The Citizens' Force, or militia, conscripts all men over seventeen years old who are physically fit to be called to the colours. In 1967 it numbered more than 12,000 men and the number of recruits is likely to increase by 50 per cent because of the compulsory drafting law. The commander-in-chief Hiemstra stated on 15 March 1967 that before another ten years have elapsed over 100,000 people will be mobilized by the Citizens' Force. In 1966 the commandos had 60,000 men on their rolls. There are also the Air Force commandos, a special category composed of pilots operating private aircraft which may be requisitioned at will by the police State. Initially, this special category of commandos had a total of 250 aircraft.

10. As for the budget of South Africa, it is astronomical as far as defence is concerned since, for the time being, it has been increased enormously; this can be very well established by the Council because in 1966 the budget was R44 million and was increased to R225 million for the years 1966-1967.

11. Police forces: The budget amounted to \$40 million in 1960 and has benefited by an enormous increase which has recently boosted it to \$100 million.

12. The partial figures and the incomplete data on the frightful arsenal and the armed forces at the disposal of the South African racists disclose a militaristic voracity which, as I said at the outset, can be regarded as the source of a future international conflagration.

13. In its capacity of guarantor of international peace the Security Council cannot, unless it fails to perform its function, minimize this danger. The obstinacy of the Vorster Government in wishing to absorb Namibia into the system of *apartheid* shows the malicious intentions of the racists who frustrate every attempt made to achieve sovereignty for that country.

14. The militaristic attitude of the Pretoria leaders prepares to go beyond the frontiers of the two countries which they have subjugated and to assume world proportions. This painful reality may, of course, be regarded as remote by certain circles which have so far chosen to arm South Africa to the teeth and which seem to be irrevocably determined to over-saturate it with armaments, as is shown by the unbridled competition foreseen with good reason in an article published by Philippe Ben in *Le Soir* and *Le Monde* on 25 July, from which I quote:

"In United Nations circles there are grave doubts as to whether the adoption of this resolution"—reference is

made to resolution 282 (1970) adopted last week—"will have the slightest influence on the delivery of arms to South Africa . . . One can foresee that this competition will increase even more among British and French companies, especially in naval construction, because the British ship builders are trying to regain the markets which were lost by the Labour Government, to the profit of the French ship builders."

15. It is notorious that the South African Aryans are concentrating enormous armies whose principal and first targets are the indigenous peoples. It is equally true that Namibia and South Africa also have been progressively turned into a base of aggression against the liberation movements in southern and central Africa. The third objective of the *apartheid* leaders comprises the independent African States which are situated within the immediate reach of the greedy talons of the South African vultures.

16. The complaints voiced against these States by the racist leaders have multiplied lately. Sometimes they are accused of sheltering African nationalists, whom the cynical subtlety of the masters of Pretoria qualifies as terrorists. Sometimes they arouse the suspicions of the leaders of *apartheid* because of their growing power which the usurpers see as a possible threat to the second cradle of nazism.

17. The massive war preparations carried out by the Whites in South Africa cover these three phases and tend to produce direct confrontation between the champions of racism and the rest of Africa. One does not have to be a prophet to realize that such confrontation is inevitable if we judge the situation by the mad manoeuvres of Pretoria. Despite the total mobilization of the Whites to defend racial supremacy, this fortress and the abundance of military means will prove to be powerless to stop the irreversible wave of liberation which has aroused the peoples of Africa. And since the independent States of our continent will no longer be able to tolerate the perpetual subjugation of the peoples who at present are subjected to the abominable practices of *apartheid*, the range of their oppressors will not delay in extending itself to the whole of Africa.

18. Thus the partners of Pretoria in various fields—commercial, military, diplomatic, consular, political and economic—are deprived of pretexts for refusing to recognize that the Vorster Government has offensive objectives.

19. Indeed, it should be added that South Africa's trading partners run the risk of becoming perpetual prey to their own wishful thinking. According to those who remain captives of these false expectations, the African States, overawed by the tremendous armament built up by Pretoria, will feel themselves doomed to acceptance of the *status quo*, which is as degrading as it is revolting. But it would be a serious mistake to believe that the whole of Africa will indefinitely resign itself to submission to the tyrannical *diktat* which condemns the people of Namibia and South Africa to perpetual dehumanization.

0. At this stage, therefore, the Council must inevitably admit that a conflagration of unforeseeable dimensions is in reparation in southern Africa.

1. In this nuclear era, any international conflict of course will affect all countries, although not equally perhaps. Therefore, the relations with the tyrannical régime of South Africa are in fact a boomerang which, in the final analysis, will be most detrimental to the very Powers which encourage that régime.

2. The reasoning which I have adopted in making this statement leads me now to the draft resolution which appears in document S/9891, published on 27 July and already distributed to the members of the Council. Representatives whom I am addressing will recall that all the members of the Security Council on 6 February last accorded me the honour of presiding over the *ad hoc* Sub-Committee which was entrusted with the implementation of resolution 276 (1970). That Sub-Committee, whose mandate was prolonged until 30 June, has performed considerable work, the result of which is condensed in the report contained in document S/9863 of 7 July 1970.

3. As shown clearly by the content of that report, it has become necessary to emphasize the need to treat the various bilateral or multilateral relations which are exploited by the Pretoria régime to fan its racial rage. The rotation of the editorial of a very objective newspaper supports this thesis. I am referring to *Le Monde* and I wish to quote this editorial. It states:

"It is true that in some European capitals an effort is being made to draw a distinction between defensive armaments, those that can be used only against an aggression, and the armaments which can be used for repressive purposes and in the service of the *apartheid* policy. But in fact the distinction is not always easy to draw. At any rate, the encouragements given to the Pretoria régime have the result of strengthening it not only militarily but also diplomatically. After his recent visit to Europe and the various contacts made in European capitals, Mr. Vorster can now boast that he has achieved a new success. Of course, the bitterness will be the greater in a large part of Africa."

That is the editorial which appeared in *Le Monde* on 7 July.

4. The countries which are competing for military or economic objectives on the South African market, therefore, act in a manner which is obviously incompatible with the friendship towards African States to which they pay so much service. Indeed, how is it possible to reconcile the voracious eagerness to supply weapons to the champions of *apartheid*, who are unyielding foes of Africa, and on the other hand to offer a hand of friendship to the African States which are so much detested by the racists of Pretoria?

5. The humiliating slaps in the face constantly given to the authority of the world Organization because of the implacable refusal of Pretoria to restore Namibia certainly require more energetic action on the part of this Organization.

The sly arrogance of the Pretoria régime requires more effective measures. How can the States be deceived by South Africa, which has violated and betrayed every principle of "non-annexation and self-government of peoples"—principles of which the leaders in Pretoria were the protagonists at one time?

26. General Smuts was the one who proclaimed that the mandate system was to be entirely free of any policy of annexation and that any mandate government should be based on the principle of the self-determination of peoples so that no State could possibly profit through the weakness of any such Territory in order to exploit it for its own benefit. This was the thesis which was supported by General Smuts on the eve of and during the conference which eventually created the League of Nations in 1918 and therefore it was, of course, the thesis of South Africa.

27. What trust, therefore, can statesmen deserve who violate such formal commitments and sacred principles? The Governments which trust Pretoria should recall this stunning change of attitude and therefore should accordingly control their propensity to deal with that racist régime because, if those racists deny the very principles they have proclaimed, as I have just shown, so much more probable is it that they will coolly betray their partners of today.

28. In view of the testimony of experts who were kind enough to address the *ad hoc* Sub-Committee, which was created by resolution 276 (1970) of the Security Council, certain cases have been communicated which deserve to be known with more details by the Security Council. May I quote Mr. Sam Mujoma, President of the South West Africa People's Organization (SWAPO), who spoke of concentration camps in Namibia. He said:

"At the present time the South African army has over 40,000 men permanently stationed in Namibia, which are supported by commandos and a numerous militia.

"The immense airbase in the eastern part of the Caprivi region is not exclusively used for the defence of the territory, but it is also a threat to the independent African States because the jet fighters of South Africa can very well proceed to attack any part of Zambia or of Katanga as well as the Democratic Republic of the Congo."

29. Mr. Sean MacBride, Secretary-General of the International Commission of Jurists, stated:

"We are already aware of the infant mortality rate in the whole of southern Africa. Out of 1,000 African children, 400 die before the age of two years, which is in striking contrast with twenty-seven per thousand which is the ratio for the white population. It would be interesting to know what are the figures for Namibia. If they are as high as one fears, this would raise the question of whether this is almost genocide because the complete neglect of health services is tantamount to a deliberate extermination of the African race. Economic sanctions are important because they shake the confidence of the South African Government and even if the countries

which are the trading partners of South Africa should still refuse to apply more extended sanctions, at least more active measures should be taken to apply paragraph 5 of resolution 276 (1970)."

30. In conclusion, these are the main reasons that certainly should prompt all to dissociate themselves completely from and condemn the apostles of *apartheid*.

31. We recognize that the text now proposed has certain weaknesses deriving from the situation prevailing in the Council. Therefore it would be very desirable if all our colleagues would understand the imperative reasons that have prompted us to submit, in substance and in form, the proposals contained in this draft. The sponsors of resolution 276 (1970)—Finland, Nepal, Sierra Leone, Zambia and Burundi—are also the sponsors of the draft resolution that is now submitted for the Council's attention. It is on behalf of the five sponsors that I introduce this draft resolution, which is inspired by the main lines of the report of the *ad hoc* Sub-Committee on Namibia. The report itself is but a reflection of a situation that was studied for five months by the Sub-Committee and it is the logical and normal conclusion of the laborious efforts exerted by all the members of the Council during the same period.

32. To sum up, in the view of the sponsors on whose behalf I am speaking the unanimous adoption of this draft resolution by the Council would be a consistent step that would be the logical crowning of the common endeavour to which all members have jointly contributed.

33. Mr. JAKOBSON (Finland): In January this year Finland joined with Burundi, Nepal, Sierra Leone and Zambia in sponsoring Security Council resolution 276 (1970), by which the *ad hoc* Sub-Committee on Namibia was established. We emphasized at that time that this was to be regarded as an interim step designed to help the Council to make more substantial decisions in the months to come. It is logical that the same five delegations have now requested the convening of this meeting of the Security Council to resume its consideration of the question of Namibia and have also jointly sponsored the draft resolution [S/9891] which embodies most of the recommendations of the *ad hoc* Sub-Committee.

34. At the time the Sub-Committee was set up there was some scepticism about the need for such a body. Now that we have its report before us [S/9863] there can be no doubt, I think, that its work has been useful. It has put forward practical and substantive recommendations based on wide agreement among its members and on full and detailed information given by more than forty other Governments as well as on suggestions and ideas submitted by experts. The use of such sub-committees may be worth considering in connexion with other questions before the Security Council. It could well be one method by which the work of the Council could be made more effective.

35. I should like to take this opportunity to pay tribute to the representative of Burundi, Ambassador Terence, for the manner in which he conducted the work of the Sub-Committee and for his comprehensive presentation of the five-Power draft resolution.

36. The various steps proposed in the draft resolution flow directly from the key provisions of Security Council resolution 276 (1970). These declared that the continued presence of South Africa in Namibia was illegal and called upon all States to refrain from any dealings with South Africa inconsistent with this. The draft resolution now before us translates these declarations into practical terms. It sets out a comprehensive programme of action which, once it has been carried out, will substantially increase international pressure on South Africa with regard to Namibia.

37. I know that the draft resolution falls far short of the wishes of some of the members of the Security Council and, of course, this cannot be the end of United Nations efforts to discharge its responsibility towards Namibia and its people. These efforts must be seen as a continuous process of ever-increasing international pressure. In this respect it would be useful, as has been proposed in the draft resolution, to re-establish the *ad hoc* Sub-Committee to study further effective recommendations on ways and means by which the relevant resolutions of the Council on the question of Namibia can be effectively implemented and also to keep a watch over the implementation of the present draft resolution.

38. I now turn to the second draft resolution before the Security Council today—the draft submitted by the Finnish delegation [S/9892], proposing that we request from the International Court of Justice an advisory opinion on the legal consequences for States of the continued presence of South Africa in Namibia. This question has been the subject of consultations between the members of the Council for the past five or six months, and it was, of course, also considered by the *ad hoc* Sub-Committee, which included our proposal among its recommendations to the Security Council. I shall therefore limit my remarks to a statement of the main arguments which in our view speak in favour of submitting such a question to the International Court of Justice.

39. First, an advisory opinion from the International Court of Justice would have considerable value in defining and spelling out in legal terms the implications for States of the continued presence of South Africa in Namibia.

40. Secondly, an advisory opinion would also be of value in defining more precisely the rights of Namibians—those staying in Namibia as well as inhabitants of Namibia residing abroad. In this way it could perhaps accord some measure of added protection to Namibians whose basic human rights are being suppressed through the application of South African repressive legislation.

41. Thirdly, it is our expectation that an advisory opinion of the International Court of Justice could underline the fact that South Africa has forfeited its Mandate over South West Africa because of its violation of the terms of the Mandate itself, because South Africa has acted contrary to its international obligations, contrary to the international status of the Territory and contrary to international law. It is important, in our view, to expose the false front of legality which South African authorities attempt to present to the world. This would help the United Nations and the

Governments of Member States to mobilize public opinion in their countries—especially in those countries which have the power to influence events in southern Africa in a decisive way.

42. In addition to the arguments I have now mentioned, another more general argument suggests itself. I have in mind the need to reactivate the International Court of Justice itself. It is one of the principal organs of the United Nations, and the highest international authority on law. We in Finland consider that its role is essential for the development of a peaceful international order. We are therefore very much concerned about the present state of affairs. An organ which is left unused is in danger of atrophy. The decline in the authority of the Court is damaging to the interests of the United Nations system as a whole and to the structure of international law. The request for an advisory opinion on a question of great interest to the international community would reactivate the Court at a particularly difficult time in its existence.

43. Having taken the irrevocable step of terminating South Africa's Mandate over South West Africa, the United Nations has assumed direct responsibility for the future of Namibia and its people. The Security Council must continue its search for practical and effective means by which this responsibility can be discharged. The two draft resolutions before the Council today—though for technical reasons presented separately—form together a programme of action which represents significant progress in our efforts to help the people of Namibia to achieve self-determination and independence to which they, like all other peoples, are entitled.

44. Mr. NICOL (Sierra Leone): Mr. President, under your wise and skilful direction the Council is once again convened to resume deliberation this time of the important question of Namibia begun in January last. As you are aware, the Council decided, in operative paragraph 9 of resolution 276 (1970), "... to resume consideration of the question of Namibia as soon as the recommendations of the Sub-Committee have been made available". The *ad hoc* Sub-Committee has submitted its report contained in document S/9863 of 7 July 1970, and as a result the Council is now convened for the purpose of resuming active consideration of the subject on the agenda.

45. The delegation of Sierra Leone is a co-sponsor of draft resolution S/9891, presented this afternoon by the distinguished Permanent Representative of Burundi, who is also Chairman of the Sub-Committee. We congratulate him for his assiduity in supervising the efforts of the Sub-Committee towards fulfilling its difficult task and arriving at conclusions which deserve our praise. Our commendation also goes to Ambassadors Jakobson of Finland and Khatri of Nepal who, in their capacity as Vice-Chairmen, contributed significantly to the work of the Sub-Committee.

46. When the question of Namibia was discussed in January last my delegation drew the attention of the Council [1528th meeting] to the flagrant refusal of South Africa to heed world opinion and relinquish its stifling hold over Namibia while there was yet time. We pointed to the international status of this Territory, a status guaranteed by

successive decisions of the International Court of Justice and by numerous resolutions of the General Assembly and this august body itself. We called attention to South Africa's persistent refusal to put an end to its policy of extending *apartheid* to that Territory. Instead of listening to enlightened world opinion and attempting to conform to the normal standards of conduct established by this world body, the South African Government has continued on a course that is likely to bring it into confrontation with the United Nations. It has also embarked on a number of political, military, economic and commercial steps calculated to strengthen its hold on Namibia. It has spared no efforts to enlist the sympathies of the Western Powers by conferring upon itself the mantle of Britain as the most influential Power vis-à-vis the trade routes after the closure of the Suez Canal. On the pretext that a vacuum is being created in that part of the world, it has emphasized its ability to keep the sea lanes open against possible communist infiltrations and has tried to persuade countries to lift the arms embargo and resume the supply of arms in spite of our Council resolution 181 (1963).

47. Last week [1549th meeting] this body pronounced itself on South Africa's intransigent behaviour and, by a resounding majority, agreed to take far-reaching steps to strengthen the arms embargo against South Africa.

48. The *ad hoc* Sub-Committee, comprising all members of the Security Council, has now this afternoon submitted its report [S/9863] for consideration by the Council. My delegation endorses its findings and subscribes fully to the view that the Sub-Committee should be allowed to study the replies submitted by various Governments to the Secretary-General, and to report further to the Council as appropriate. Such an approval is necessary to enable the Sub-Committee to continue its work without interruption and to produce far-reaching and significant results.

49. My delegation would urge those delegations which have reservations on the report to support it, as its adoption will contribute to the solution of this troubling issue. We look forward to their assistance and support since every inch gained in the struggle of the people of Namibia against the forces of imperialism and colonialism is a victory gained for human dignity and self-respect.

50. Some delegations entertain genuine misgivings with regard to the draft resolution contained in document S/9892, which seeks to reopen the question of Namibia at the level of the International Court of Justice. After the decision handed down by the Court in July 1966¹ that it could not pronounce on the substantive issues of the case because Ethiopia and Liberia had "no legal interest" in it, my delegation can understand the basis of their doubts about the wisdom of this step.

51. But we must remember the view recently given by Sir Muhammad Zafrulla Khan, the distinguished President of the International Court of Justice, in an article in the *United Nations Monthly Chronicle* of July 1970, about the potential usefulness of his Court which has not been fully

¹ *South West Africa, Second Phase, Judgment, I.C.J. Reports 1966, p. 6.*

exploited; Sir Muhammad stated that no advisory opinion had

“been requested by the Security Council, and only two by the specialized agencies. While it may be possible to discern a certain reaction in post-war thinking against the earlier, sometimes exaggerated, confidence in the possibility of reducing all questions to legal questions, it is not possible to dismiss the advisory work of the Permanent Court as the product of an excessive propensity to have recourse to law. . . . In no case did the Permanent Court have to decline to give an Opinion on the ground that the issue laid before it was not a legal question.”

We therefore think that the precedent of the case against South Africa which was put forward by Ethiopia and Liberia and which had a reverse decision against it, is one which should not discourage us from proceeding further on this matter to the International Court of Justice.

52. We understand the reservations which have been made on the report under discussion today by the delegations of Poland, Syria and the Union of Soviet Socialist Republics and we are in considerable sympathy with them as to the slowness, through endless discussions and manoeuvres, with which the whole matter of Namibian independence is being implemented.

53. We agree that our support of the recommendations of this report is based on the feeling that their attention might lead in some way towards a solution of this vexed situation. This is why we support the need for continued study and further effective recommendations on ways and means by which the relevant resolutions of the Council can be effectively implemented.

54. We have had occasion, as I mentioned earlier, to draw attention to the extension of the obnoxious doctrines of *apartheid*, which have been exported by South Africa to Namibia, a Territory under the United Nations. Africans have very little opening for employment outside manual work, and Namibia has been used as a reservoir for cheap labour by South Africa. The highest stratum of education is that of teacher-training colleges, designed to produce teachers to work in schools operated under the Bantu education system, which is a travesty of true educational philosophy and practice.

55. Again, in a Territory which was under a sacred mandate and which is now under the United Nations, we have witnessed forcible removals of citizens from their ancestral homelands to fit in with the Bantustan policy, again designed to confine Africans to the least wealthy areas of their country. Efforts have been made by the South African Government to set one non-White community against another on the basis of tribe and mixed ancestry. My delegation unreservedly condemns those atrocities of the South African Government.

56. Industrially, diamonds, copper and zinc have drawn new investors to the country, in addition to the flourishing industry in hides and skins. Oilfields have attracted international investors. British and South African companies have obtained large concessions.

57. Since it is reported by leaders of SWAPO, the Namibian liberation movement, that countries like Canada, France, the United States, the United Kingdom, Italy, Japan, Belgium and the Federal Republic of Germany are interested in and participate in the economic development of the Territory, they can bring pressure to bear on South Africa, and also divert some of the earnings of the companies involved into funds for the development and training of Namibians.

58. The Federal Republic of Germany, particularly, has an important part to play, as the white settlers and farmers in Namibia are, or have mainly been, of German descent. The Federal Republic of Germany can point to its friendship and co-operation with black African States to demonstrate to white Namibians that a stable and lasting future lies only in the future democratic independence of the Territory, under international legality.

59. The Committee of Twenty-Four² recently sent an *ad hoc* group to visit Africa, and I was privileged to be a member of that group. We met many refugees and members of liberation movements. It was most encouraging to find organizations and Governments, from both the Eastern and Western blocs, contributing to the education of Namibians and it was also encouraging to see how far black Namibians can reach when given the opportunity. But such cases have been too few, and isolated. In the sixty years or so of its Mandate and trusteeship, South Africa has been able to produce only one doctor in Namibia. In the past decade, due to the activity of the liberation movements and interested countries, about twenty doctors have been produced. This shows how far South Africa has failed in its interest in and its development of the country of Namibia.

60. The liberation movements have asked for full legitimacy of their struggle for freedom, and for the United Nations to make available material aid for that struggle, together with material aid for the Namibian refugees in Zambia and Botswana, and aid for the education of Namibian citizens outside Zambia.

61. My delegation would like to urge that the United Nations, its specialized agencies and its member States take full cognizance of all these requests, since we are gradually being left with few alternative possibilities if the present intransigence of the South African Government continues.

62. In conclusion I should like to take this opportunity in the Security Council to pay tribute to the memory of Chief Hosea Kutako, Paramount Chief of the Herero community in Namibia. He passed away recently at the ripe old age of one hundred years. He fought all his life against colonialism and for the freedom of his people. He sent many petitions to the United Nations and brought the attention of the whole world to the suffering of his community under different colonial régimes. My delegation, in honouring him, entertains the hope that within our own lifetime we shall see the fulfilment of his dreams in the creation of a free and independent Namibia.

² Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

63. Mr. KHATRI (Nepal): My delegation has joined with those of Burundi, Finland, Sierra Leone and Zambia in requesting this meeting of the Security Council to resume its consideration of the report [S/9863] submitted by the *ad hoc* Sub-Committee under the terms of Security Council resolution 276 (1970). The five delegations have also jointly prepared a draft resolution [S/9891], which was introduced at the beginning of our meeting by the Ambassador of Burundi, who was the Chairman of the *ad hoc* Sub-Committee.

64. The joint draft resolution incorporates the recommendations made by the *ad hoc* Sub-Committee, except for those related to seeking an advisory opinion from the International Court of Justice on the legal consequences for States of the continued presence of South Africa in Namibia. Those latter recommendations form the subject matter of a separate draft resolution [S/9892] introduced just now by the Ambassador of Finland on behalf of his delegation.

65. My delegation co-sponsored resolution 276 (1970), which was provisional in nature, in the belief that the report of the *ad hoc* Sub-Committee established in pursuance of it would provide a basis for more substantive action by the Security Council in respect of the Territory of Namibia. Referring to document S/9620 which subsequently became resolution 276 (1970), I stated [1528th meeting] that it sought to move the Security Council in its search for a solution of the question a little ahead of the dead centre in which the Council had been placed as a result of South Africa's refusal to comply with United Nations decisions.

66. The *ad hoc* Sub-Committee discussed several proposals submitted to it. A few of those proposals have now come out in the shape of recommendations in the Sub-Committee's report. Weakened by both the variety of reservations entered by a number of delegations and by the political necessity for reducing our conclusions to a lowest common denominator, the final set of recommendations contained in the report represents, none the less, a modicum of progress—and progress, however inadequate, is desired by all.

67. The five-Power draft resolution is based on the most widely acceptable parts of the recommendations made by the Sub-Committee. It has been conceived in a spirit of co-operation and drafted with a view to securing the widest possible support in the Council.

68. My delegation is happy to be one of the co-sponsors of this draft resolution. I may point out, however, that some provisions in the draft resolution seem to make a distinction between resolutions adopted without the concurring votes of two permanent members and those adopted without the votes of three, or between resolutions adopted with the votes of all non-permanent members and those adopted with one or more abstentions on the part of those members. As far as the delegation of Nepal is concerned, it does not view with total satisfaction the increasing tendency among delegations, permanent as well as non-permanent, to ascribe a scaling degree of validity to Security Council resolutions on such grounds. However, as I

indicated, our primary concern was to make the joint draft resolution as widely acceptable as possible.

69. The present draft resolution contains many positive and novel features lacking in previous resolutions. In addition to providing for complete non-recognition by States of the authority of South Africa over Namibia and termination of all existing relations with South Africa in so far as those relations pertain to the international Territory, the Security Council, under the draft resolution, would call upon States not only to ensure that their national companies cease all present or future commercial, industrial and concessional enterprises in Namibia but also to withhold protection of any such investments against claims of a future lawful government of Namibia.

70. Those provisions are largely based upon the steps taken recently by the Government of the United States. At the 1496th meeting of the Security Council on 11 August last year, Ambassador Yost stated that a continued assertion by the Council of unequivocal condemnation of the violation of the Charter in Namibia, coupled with possible positive steps on the part of member States, represented a promising means of realizing our common objectives. However inadequate they may prove to be in the light of the over-all question of Namibia, the steps taken by the Government of the United States will have some practical effect, and we welcome them. We urge that other States, in particular South Africa's major trading partners, follow the example set by the Government of the United States, which, we hope, will take more effective measures in the future.

71. The co-sponsors have also sought to provide for a detailed study and review of all bilateral and multilateral treaties to which South Africa is a party and which might be considered to apply to the Territory of Namibia, so that the results of the study might assist States—if indeed assistance were needed—in the implementation of United Nations resolutions on Namibia.

72. Another novel and significant feature of the joint draft resolution is that under it the Security Council would request the United Nations Council for Namibia to make available to the Security Council its study and proposals regarding not only passports and visas for Namibians for travel abroad but also regulations governing the travel to Namibia of the citizens of other States. It may be recalled that General Assembly resolution 2248 (S-V), which set up the United Nations Council for Namibia, did not receive the support of any one of the four permanent members.

73. Under paragraph 12 of the draft resolution, the Security Council would request the General Assembly at its twenty-fifth session to set up a United Nations fund for Namibia to provide assistance to Namibians and to finance a comprehensive educational and training programme for them with particular regard to their future administrative responsibilities in the Territory. This is one positive element of the draft resolution which, we hope, will receive the support of even those States which are noted for their continued opposition to all United Nations endeavours in Namibia.

74. The co-sponsors believe that the *ad hoc* Sub-Committee should be re-established with the same terms of reference as before. Although in a limited sense, the work of the Sub-Committee has been useful. By re-establishing the Sub-Committee, the Security Council will retain the initiative with regard to the question in its hands. My delegation reiterates its firm belief that the Security Council should continue to seek all possible avenues and make all possible efforts with a view to the ultimate solution of the question of Namibia.

75. The *ad hoc* Sub-Committee, in its report, has recommended that the Security Council reaffirm its call upon all States to cease forthwith the sale and shipment of arms, ammunition and all types of military vehicles to South Africa, as well as materials for the manufacture and maintenance of arms and ammunition in South Africa. The Sub-Committee has further recommended that the Security Council request all States to take more stringent measures to give effect to the resolutions of the Security Council concerning the arms embargo. All those recommendations have already found expression in Security Council resolution 282 (1970), adopted only recently. The preamble of the present draft resolution reaffirms that resolution.

76. In this connexion, I should like to express again our strong sense of dissatisfaction and regret at the policies of those States which have violated both the spirit and the letter of relevant Security Council resolutions by supplying arms to South Africa. We have rejected the distinction drawn by those States between arms for internal use and those for external defence. We are also not at all convinced by the argument of the present British Government regarding its need for a defence arrangement with South Africa—an arrangement which has no application in the present age.

77. My delegation wishes to emphasize the significance of all Security Council resolutions concerning the arms embargo, particularly resolution 282 (1970), against the background of the question of Namibia. Aircraft supplied to South Africa, in violation of the embargo and allegedly for external defence, are known to have been used for internal repression. Submarines, similarly supplied, have proved vital in bolstering South Africa to maintain control over Namibia. South Africa's military installations in the Caprivi strip are helping to ensure its continued presence in the international Territory. Experts have testified at the meetings of the Sub-Committee to the effect that South Africa has at least one operational military base in Namibia—an international Territory which is supposed to be an arms-free zone.

78. Many States—South Africa's trading partners and military collaborators among them—say repeatedly that the pressure of world public opinion should be constantly kept focused on the situation prevailing in southern Africa. Yet, when international movement against the policies of South Africa gains momentum and South Africa feigns alarm, those very States come to the rescue of South Africa on various untenable pretexts. Those are the States which help South Africa in breaking out of the stigma of international isolation and gaining diplomatic and political respectability. I have stated before, and will state again, that supplying

arms and extending solace to a régime such as that of South Africa, in the context of that régime's aggression against Namibia and in violation of United Nations resolutions, is an act of grave international irresponsibility and a callous disregard of all decent world public opinion.

79. So far as South Africa is concerned, by continuing to occupy Namibia after the termination of the Mandate, it has placed itself in a position of an aggressor vis-à-vis the United Nations as a whole and all Member States, individually and collectively. South Africa's persistent refusal to abide by the decisions of the United Nations; its growing collaboration with other racist and colonial régimes; its professed policy of disintegrating Namibia; the introduction of the policies and practices of *apartheid*—all these are very sinister signs portending a bitter colour war in Africa. In the view of my delegation, the situation is one which deserves very drastic remedies along the lines prescribed in Chapter VII of the Charter. We would much have preferred a draft resolution providing for those remedies. But we also recognize the impossibility of getting such a resolution adopted in the existing power balance in the Security Council.

80. Each of the permanent members can block any action under Chapter VII simply by saying no. This is their special right. They also have the special responsibility of protecting the integrity of the Charter and of preventing the authority of the United Nations from being eroded. As everyone agrees, in Africa today South Africa is deliberately and persistently violating the principles of the Charter and eroding the authority of the United Nations. If, in these circumstances, the permanent members of the Security Council show utter insensitivity towards the feelings of a great majority of States, pursue their own selfish and profit-motivated policies instead of ones aimed at the larger interests of world peace, violate the norm established by United Nations decisions arrived at with their own concurrence, and give moral solace and material assistance to the aggressive party, then one might say that they had forfeited the confidence originally placed in them by the world community. Then they could not claim morally to have any special right and any special responsibility under the Charter. Perhaps, in this light, the thoughtful remarks made by the Ambassador of Colombia, in his statement of 21 July [1547th meeting], concerning the need for structural changes merit special consideration.

81. Having said that, I now turn to the draft resolution contained in document S/9892. I shall very briefly define the attitude of my delegation in this regard. My delegation has accepted the report of the Sub-Committee, including its recommendations as a whole. Consequently, we shall have no objection to voting in favour of a draft resolution which seeks to give effect to an important element contained in those recommendations. The draft resolution in question is entirely based on the report of the Sub-Committee which recommends that the Security Council request the International Court of Justice to give an advisory opinion on "the legal consequences for States of the continued presence of South Africa in Namibia notwithstanding Security Council resolution 276 (1970)." In voting in favour of the draft resolution, it will be our understanding that the International Court limit the scope of its advisory

opinion strictly to the question put to it, and not review or examine the legality or validity of the resolutions adopted by both the General Assembly and the Security Council.

82. My delegation is mindful of the doubts on the part of many delegations regarding the usefulness and timeliness of seeking an advisory opinion on the question of Namibia. Indeed, the records of the International Court in the whole matter concerning this international Territory are far from distinguished, nor have they been in accord with the legitimate and natural aspirations of an emerging world. The 1950 Opinion of the Court³ stating categorically that South Africa was under no legal obligation to place Namibia—then South West Africa—under United Nations Trusteeship, fortified South Africa in its determination to perpetuate its hold over the international Territory. I need hardly recall the disappointing impact created by the unfortunate Judgment of the Court in 1966.⁴ The misgivings expressed in some quarters that the judgements and opinions of the Court fail far too often to take into account the full import of the progressive development of the new norms of international law under the United Nations system would appear to be not too much exaggerated.

83. However, we have great respect for the institution of the International Court of Justice. It is the principal judicial organ of the United Nations, and it should remain so. If, therefore, the draft resolution is to provide an opportunity for the International Court to redeem its impaired image, my delegation will only be too glad to support it. The scope of the question put to the world Court is restricted. My delegation would be surprised if the advisory opinion of the Court in this matter spurred the major trading partners and military collaborators of South Africa into any positive effective actions, because, if they have so long resisted world opinion and neutralized the thrust of all positive United Nations endeavours on the question of Namibia, it is too much to expect that they will change their minds on the basis of the Court's opinion, whose effect would only be advisory. Nevertheless, this recourse to the Court might result in the provision of highest legal guidance and assistance for many law-abiding States, which sincerely wish to implement the United Nations resolution on the subject.

84. Mr. MORALES-SUAREZ (Colombia) (*interpretation from Spanish*): In connexion with the item that the Council has before it, and specifically with the draft resolutions submitted by Burundi, Finland, Nepal, Sierra Leone and Zambia [S/9891], on the one hand, and by Finland [S/9892], on the other, I should like to say that my delegation is in basic agreement with these draft resolutions.

85. The Security Council has repeatedly considered this entire problem. The position of Colombia on this subject is contained in the statement made on 30 July 1969 by Ambassador Turbay Ayala in this Council [1492nd meeting]. He stated, *inter alia*:

“As the representative of Colombia—a country with a long tradition of anti-colonialism, which has built its

³ *International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

⁴ *South West Africa, Second Phase, Judgment, I.C.J. Reports 1966*, p. 6.

democratic system upon the irreplaceable foundation of equality of opportunity and, consequently, rejection of discriminatory practices—I would not feel at ease if I failed to express my most forceful protest against the reactionary policy of the Government of South Africa or to voice the solidarity of my people with all those who, like the indigenous people of Namibia, are struggling for their independence and for respect for human dignity.”

86. In view of the foregoing, I need now refer only very briefly to the fact that my delegation is anxious to see this problem settled. It does not affect us directly and materially. It is, however, of constant concern to my delegation. This statement may seem to be contradictory, but it is understandable when one considers that my delegation, as is true of other Latin American delegations in the Security Council, has a very clear-cut legal tradition that has always prompted us to defend the basic rights of human beings and particularly the principle of self-determination, without which genuine freedom could not exist. It would be quite wrong to think that simply because we do not have direct contact with the country we are indifferent to the problems of Namibia. The United Nations would not be truly universal if the interests of all countries, no matter how weak or remote, were not recognized and constantly protected by all Members of our Organization.

87. I should like to make just one comment on the draft resolution contained in document S/9891. It certainly seems appropriate that there should be close and if possible planned co-operation between the Security Council and the *ad hoc* Sub-Committee, whose existence is continued under paragraph 14, for this cannot fail to have a beneficial effect upon the work of both bodies.

88. Finally, Mr. President, may I ask you to consider having the next meeting of the Council take place next week, in view of the fact that on Friday, 31 July, all members of the mission dispatched by the United Nations Council for Namibia will return to New York from Africa. Certainly it would seem to be desirable and useful to wait until the relevant information is received before closing debate on the draft resolution to which I have just referred. In this connexion, I would ask the Council to bear in mind paragraph 10 of the draft resolution contained in document S/9891. This paragraph contains a specific reference to the work of the United Nations Council for Namibia.

89. Mr. JOUEJATI (Syria): The Security Council is now engaged in the consideration of the report of the *ad hoc* Sub-Committee [S/9863] that it created on 30 January of this year for the purpose of considering ways and means to implement the relevant United Nations resolutions on Namibia. The *ad hoc* Sub-Committee, under the able Chairmanship of the Ambassador of Burundi and with the valuable assistance of the two Vice-Presidents and the constant efforts of the Secretariat, has left no stone unturned in the examination of the various aspects of the situation and the search for its appropriate and acceptable solution.

90. At every juncture of its consideration the *ad hoc* Sub-Committee found itself faced with the intransigent attitude of the Government of South Africa, for what remains to be discussed when that Government heeds no

United Nations resolution, whether they be recommendations by the General Assembly or decisions by the Security Council; takes no positive attitude toward the appeals for justice and reason made by our Secretary-General; co-operates with no United Nations organ; makes abundantly clear its determination to annex Namibia, purely and simply; deliberately propagates the condemned practices of racial discrimination; and crowns all this now with the pretence that it is affording the Namibians the opportunity to exercise their right of self-determination, while it is, in fact, as was eloquently illustrated in the statement of the representative of Sierra Leone, denying their most elementary rights?

91. On the other hand, most of the members of the Sub-Committee realized how painful was the failure of the Security Council to apply the appropriate sanctions against the Government of South Africa for its continued occupation of an African Territory that belongs to its people—sanctions clearly provided for in the Charter to meet such cases, but opposed by certain members without whose consent they would not be effective. Out of this sad realization, and for the sake of unanimity, the Sub-Committee recommended a gamut of measures designed to put material and moral pressure on the Government of South Africa to change its policies.

92. The representative of Burundi, at the beginning of this meeting of the Security Council, introduced a draft resolution [S/9891] which crystallizes these recommendations. The thoroughness with which the representative of Burundi, on behalf of the co-sponsors, explained the philosophy of the draft unraveled its numerous merits. In fact, it strengthens the attitude of non-recognition of South African authority in Namibia. It goes further by calling for an end to any commercial and industrial relations and links with South Africa as far as Namibia is concerned. It calls for an end to foreign investment in Namibia and opens the way for a thorough study of all bilateral treaties to which the Government of South Africa is a party, in order to assess any possible bearing on the status of Namibia. It provides for other measures also to strengthen the Namibians in their will to liberate their territory.

93. My delegation does not belittle the scope of these measures and would, naturally, vote for them in solidarity with their authors, with whom it entertains the closest brotherly relations. But we believe that nothing short of drastic measures in the form of effective sanctions provided by the Charter would deter the Government of South Africa from its thrust into the political and human rights of the Africans and the territorial integrity of their lands. We wish the situation were different. But daily evidence, as rightly noted in the preamble to the draft resolution, points to “the continued flagrant refusal of the Government of South Africa to comply with the decisions of the Security Council demanding the immediate withdrawal of South Africa from the Territory”. This is indeed a challenge that the United Nations cannot ignore any longer; otherwise its efficacy as the instrument for peace and justice would be in jeopardy.

94. Whatever the outcome of these measures may be, one cannot conclude without paying tribute to the delegations

which sponsored the draft resolution, to the representative of Burundi for introducing it, and especially to you, Mr. President, for having convened the Security Council to take a decision on this matter. Let us hope that the measures that will be decided upon will bring nearer the day of the attainment by the Namibians of their freedom and independence and their full enjoyment of their inalienable rights.

95. I come now to draft resolution S/9892 introduced this afternoon by the representative of Finland with his usual mastery and precision. The legal implications of the continued presence of the authorities of South Africa in Namibia have indeed been dwelt upon at some length by the *ad hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970). It was then estimated that the International Court of Justice might play a useful role in strengthening the will and the means of States to oppose this illegal act by South Africa perpetrated against a Territory that is now juridically under international authority. My delegation wishes, therefore, to pay tribute to the representative of Finland for having embodied this desirability into a commendable draft resolution.

96. The International Court of Justice, as we see from the draft resolution, is not asked to rule on the status of Namibia as such; rather it is requested to elicit the scope of legal means at the disposal of States, which may erect a wall of legal opposition to the occupation of Namibia by the Government of South Africa. Accordingly, our understanding of the draft is that it seeks to add a valuable element to the range of actions that can be taken by States in fulfilment of their obligations under the Charter and the resolutions of the Security Council.

97. Nor does the draft call for a suspension of the consideration of the question of Namibia in the organs of the United Nations until the advisory opinion of the International Court has been obtained. For the United Nations to press unceasingly for the withdrawal of the South African administration from Namibia is indeed an imperative duty that must be pursued assiduously. Once the advisory opinion of the Court is given, it will merely represent an element in forcing United Nations measures against the defiance of South Africa.

98. On the basis of such understanding, and within this scope, my delegation will cast its vote affirmatively on the draft resolution of Finland and wishes to reiterate its gratitude to the representative of Finland for the initiative that may prove useful in its consequences.

99. Mr. MWAANGA (Zambia): The Security Council is again seized with the ever burning question of Namibia. Only last week the Council adopted a far-reaching resolution prohibiting the sale of arms and spare parts to the South African *apartheid* régime. This meeting is therefore timely because Namibia has been a defenceless victim of South African aggression, using weapons which have been supplied by Western imperialist Powers.

100. The position of the Zambian Government on the report of the *ad hoc* Sub-Committee [S/9863] was made

clear in the Sub-Committee itself. Let me take this opportunity, however, to pay unstinting tribute to my friend and colleague, Ambassador Terence of Burundi, for the outstanding manner in which he performed his duties as Chairman of the *ad hoc* Sub-Committee throughout its long spell of work. His dedication and wisdom were a great source of inspiration to all of us. He was undoubtedly helped in this formidable task by the able representatives of Nepal and Finland, who presided impressively over the deliberations of the Sub-Committee in his absence. We express our indebtedness to them.

101. I would be less than candid if I did not confess that the *ad hoc* Sub-Committee operated under very difficult and sometimes strained circumstances, since Governments maintained their well known positions on all issues. However, all things considered, I think we could not have obtained better results under the circumstances. The report lists a number of measures which are within the reach of every Government to take in order to apply pressure on the South African Government to bring an end to its illegal occupation of Namibia.

102. The refusal of South Africa to comply with Security Council and General Assembly resolutions pertaining to the withdrawal of that country from Namibia, is probably the most serious threat ever posed to the very existence of the United Nations as an effective instrument for the maintenance of international peace and security. It is becoming harder and harder to explain to African public opinion why the United Nations and the Security Council in particular have not been able to implement their numerous resolutions relating to Namibia.

103. The world, I am sure, knows by now that it is not the African people who are obstructing a settlement; it is not the Asian people who are obstructing a settlement; it is not the Socialist countries which are obstructing a settlement; it is not the Latin Americans who are obstructing a settlement; it is not the silent Western European majority which are obstructing a settlement. It is the United States, the United Kingdom and France which are obstructing a settlement, by blocking measures under Chapter VII of the Charter, which are adequate to bring an end to the illegal occupation of Namibia by South Africa. They are providing South Africa with the moral, political and economic support which it badly needs to continue defying world opinion and also to continue subjecting the people of Namibia to the most barbaric and inhuman treatment. We have repeatedly stated that mere condemnations of *apartheid* do not impress anybody on the African continent. The Western major Powers are on the wrong side of the colour line, simply because they want to protect their narrow political and economic interests. While, of course, the racial and colonial policies pursued in southern Africa by South Africa, Rhodesia and Portugal are as objectionable as those pursued by South Africa in Namibia, one would have hoped that it would be possible to secure a greater amount of support for measures to be taken to free Namibia by reason of the United Nations direct responsibility for Namibia. The freeing of Namibia is the direct responsibility of the United Nations and of all Member States; it is not solely an African concern.

104. Having passed resolution 282 (1970) which has been reaffirmed in draft resolution S/9891, which has been ably presented by Ambassador Terence of Burundi on behalf of the five co-sponsors including Zambia, the time has now come for the Security Council to make a direct appeal to all trade unions throughout the world to refuse to handle shipments of arms of all types destined for South Africa. If this proposal is accepted, as I hope it will be, it will be necessary to follow it through energetically by making direct approaches, not only to the three main international confederations of trade unions—I mean the International Federation of Trade Unions, the World Federation of Labour and the World Federation of Trade Unions—but also to the specialized transport, dockers, engineering, seamen's and marine trade unions. In addition to its practical results, I believe that this approach to the trade unions would serve to focus public attention on the problem of Namibia.

105. The Western Powers by not identifying themselves with the cause of the majority in Africa are going to pay a very high price in terms of loss of influence. Time is not on their side. The primary objective of all countries which cherish freedom and justice for all men in southern Africa ought surely to be the freedom and welfare of all the peoples of the area. More specifically this means: first, preserving the political independence of neighbouring African States; second, promoting the economic development of these States; third, supporting the principle of self-determination as the basis for independence throughout southern Africa; fourth, seeking to replace the present régimes in southern Africa with Governments based on majority rule; fifth, preparing the peoples of southern Africa to assume the responsibilities of self-government.

106. In pursuing these objectives a number of principles should obviously be borne in mind:

(a) Southern Africa must be treated as a unit. The issues that divided the white communities in the past are less important than the ties that bind them today. Even the theoretical differences in approach to race are now eclipsed by the fact of a common pattern of white domination;

(b) The privileged white minorities in southern Africa are not going to abdicate power voluntarily. Appeals to morality, reason or even self-interest will prove unavailing. Majority rule will therefore have to be imposed;

(c) It is crucial to ensure that the responses of the West to the issues of southern Africa should be in terms of freedom rather than in terms of race;

(d) It is important for the Western Powers to know that, whether they like or not, the ruling classes in southern Africa are their "kith and kin". They cannot, therefore, escape being blamed for their behaviour.

107. The problems of southern Africa are increasingly intractable and solutions are becoming more difficult and dangerous as white solidarity and white supremacy grow.

108. Turning now to the draft resolution contained in document S/9892, which was introduced this afternoon by

Ambassador Jakobson, I wish to state that my delegation will vote in favour of it. We have expressed our reservations about a request for an advisory opinion from the International Court of Justice. We have had to take into account the following considerations:

(a) That it might be offensive to African public opinion still smarting under the impact of the Court's decisions in the 1966 South West Africa cases;

(b) That some lingering uncertainty remains about the possible future outcome of an opinion despite the change in the Court's membership;

(c) That the legal drafting of the question to be put to the Court is specific enough to elicit a clear opinion from the Court which would be politically acceptable;

(d) That there is some concern on our part that the Court may raise in its opinion doubts about General Assembly resolution 2145 (XXI) and about General Assembly resolution 2248 (S-V).

109. We have taken all these considerations into account and have decided to support this draft resolution on the clear understanding that Namibia is a political problem requiring a political solution and that this resolution does not in any way affect our desire to continue pressing for political action.

110. It is our hope that the Court will be able to give its opinion within the next six months. This question above everything else will give the Court a crucial opportunity to restore world public confidence in its very existence. Zambia will continue as before to support the just struggle of the people of Namibia until total victory is achieved.

111. Mr. MESSIA (Spain) (*interpretation from Spanish*): My delegation, like others, was honoured to participate in the work of the *ad hoc* Sub-Committee and it wishes now to pay a grateful tribute to the Chairman of the Sub-Committee, Ambassador Terence of Burundi, for the very wise and effective way that he carried out his mission at all times.

112. In our opinion the work done by the Sub-Committee was positive and fruitful, for it succeeded in combining various initiatives and in putting its conclusions in the appropriate framework and in a text. Had this not been done these conclusions would have appeared to be mere rhetoric. It is true, however, that due to limited time there is some unfinished business. We are therefore truly pleased that it has been proposed that the Mandate be extended so that what is now at a rather advanced stage can eventually be completed satisfactorily.

113. The fact that, procedurally speaking, the situation was ripe for this debate today should not be an obstacle to our stating once again the original terms of the problem. That is, there has been a breach of international law as a result of the presence of South Africa in Namibia and as a result of failure to comply with a series of resolutions, including resolution 269 (1969) of the Security Council calling for the immediate withdrawal of South Africa from that Territory before 4 October 1969.

114. If we add to this illegal situation the fact that the Government of South Africa has been pursuing in this Territory the unanimously condemned policy of *apartheid*, we find that in addition to a violation of international law there has been a violation of moral law and the principles of the Charter.

115. In our opinion, the joint draft resolution before us [*S/9891*] is a positive step of obvious importance in the direction laid down in resolutions of both the General Assembly and the Security Council. Therefore there is no need for me to say that my delegation supports it and applauds it. In a co-operative spirit my delegation wishes, however, to enter a reservation to paragraph 2 of the joint draft resolution, for we feel that juridically speaking it is unnecessary.

116. The problem of Namibia has confronted us with one of the most serious questions the Organization has ever faced—that is, the behaviour of one of its Members in respect of failure to comply with the resolutions of one of the Organization's bodies. My delegation feels that it is therefore most appropriate to request a ruling from the International Court of Justice, for this would make it possible for us to be aware of the international legal consequences of a failure to comply with resolutions of a United Nations body—and specifically in this case, resolutions 264 (1969), 269 (1969) and 276 (1970) of the Security Council.

117. My delegation therefore supports the draft resolution which was so ably presented by the delegation of Finland [*S/9892*]. We confidently expect this further action by the Security Council to contribute decisively to the achievement of the objectives the United Nations has set for itself on this question—that is, the defence of the interests and rights of the Namibians and respect for the decisions of the Organization in discharging its special responsibility toward the Territory of Namibia.

118. Mr. ZAKHAROV (Union of Soviet Socialist Republics) (*translated from Russian*): A few days ago the Security Council concluded the discussion it had held at the request of forty African and Asian States, on the question of the serious and dangerous situation which has arisen in southern Africa as a result of the pursuance and intensification of the criminal policies of *apartheid* by the authorities of the Republic of South Africa and of the failure by the Western Powers to comply with the embargo on the supply of arms to the South African racists. The Security Council is once again considering the question of action taken by the Republic of South Africa against the freedom and independence of African peoples. This time, we are concerned with the fate of the long-suffering people of Namibia, which is groaning under the yoke of the despotic tyranny of the South African racists.

119. The authorities of the Republic of South Africa continue to ignore the decisions of United Nations organs depriving South Africa of any right to govern Namibia, including the decision of the Security Council calling for the withdrawal of the South African administration from Namibia. Moreover, the South African racists are using methods of mass terrorism and cruel repression to stifle the

legitimate and natural aspirations of the Namibian people for freedom and independence. In violation of well-known decisions of the General Assembly and the Security Council, the Republic of South Africa is illegally extending to the Territory of Namibia South African racist laws, acts and administrative orders and the policies and practices of *apartheid* which have been condemned by the United Nations and the entire international community.

120. In January this year, the Security Council decisively condemned the Republic of South Africa [*resolution 276 (1970)*] for its refusal to comply with the General Assembly and Security Council resolutions on Namibia. Nevertheless, the South African racists are continuing their illegal acts in respect of Namibia. What are the reasons for the situation which has arisen? Why do the South African racists take the liberty of insolently defying the United Nations, the peoples of Africa and all freedom-loving peoples? The answers to these questions are now obvious to everyone.

121. The discussions in the Security Council and the General Assembly on questions relating to the situation in southern Africa do not leave a shadow of a doubt. In pursuing its policy, the South African régime is relying on the political, economic and military support of leading NATO Powers, which are endeavouring to maintain their economic, military and strategic positions in southern Africa. Obviously, there are some people who want to preserve forever the racist Pretoria régime, which is armed to the teeth, and to use it as a police truncheon to terrorize the African countries and suppress the national liberation movement in Africa.

122. This explains the policy and actions of the Western Powers in regard to the Republic of South Africa. During the discussion on the question of *apartheid* at recent meetings of the Security Council, the representatives of African countries provided extensive information from documents of United Nations organs testifying to the development of economic, trade and military co-operation between the Western countries and the Republic of South Africa, and demonstrating the expansion of trade relations and the immense flow of investments from those countries to the South African economy. According to information given in the report circulated at the request of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, dated 18 June 1970⁵—a report to which the Soviet delegation has already referred in its statement in the Security Council on 21 July [*1547th meeting*]⁵—the United States of America, the United Kingdom, West Germany, Italy, France, the Netherlands, Japan, Sweden, Switzerland, Canada and Australia are the principal trading partners of South Africa or the main investors in the South African economy.

123. Relying on economic and military co-operation with the Western Powers and also on their political support, the South African racists are expanding their military and economic potential, enlarging their army and providing it with more weapons. The members of the Security Council are well aware of the purposes for which the armed might

of the racist South African régime is being used. It is being used not only for maintaining the racist system in South Africa itself by armed force, but also for combating national liberation movements in Namibia and Southern Rhodesia, for assisting the Portuguese colonialists in their campaign against the patriotic forces in Guinea (Bissau), Mozambique and Angola and for threatening the sovereignty of the young independent African States.

124. We are firmly convinced that the essential prerequisite for the granting of independence to the people of Namibia is the expulsion from that country of the South African racists and the South African administration, troops and police. Since South Africa refuses to leave Namibia, it is essential to get the Western Powers to discontinue their political, economic and military aid to the Republic of South Africa, as a country which is violating the United Nations Charter. The Soviet Union has repeatedly stressed the need for the General Assembly and the Security Council to take effective measures to bring pressure to bear on South Africa, to force it to comply with the decisions of United Nations organs on the question of Namibia and to pave the way for a settlement of the Namibian problem in the interests of the people of Namibia.

125. Basing itself on this approach, the Soviet Union took part in the work of the *ad hoc* Sub-Committee of the Security Council on Namibia which was set up to study ways and means by which the relevant Security Council resolutions could be effectively implemented.

126. In our opinion, the Sub-Committee has done some useful work in this direction and has considered many proposals and ideas in accordance with its terms of reference.

127. In order to bring pressure to bear on South Africa and end its unlawful occupation of Namibia, the USSR delegation proposed in the Sub-Committee that the Security Council should be recommended to demand that all States comply strictly with the decisions of the Security Council and the General Assembly on Namibia and cease completely all economic, trade, transport and other relations with the Republic of South Africa.

128. Recent events confirm that this approach of the Soviet Union was correct. That is why—as the delegation of the USSR has already stated in the Sub-Committee—the recommendations made by the Sub-Committee in its report to the Security Council [*S/9863*], and subsequently reflected in the draft resolutions submitted [*S/9891 and S/9892*], cannot in our view be regarded as entirely satisfactory. In order to fulfil the main requirement for the independence of Namibia—which is the expulsion of the South African racists and their administration and military and police forces from Namibia—it is essential to define and apply more effective measures than those proposed by the Sub-Committee and contained in the above-mentioned draft resolutions.

129. Nevertheless, since today's discussion has made it clear that the representatives of the Afro-Asian countries members of the Security Council consider that the measures

⁵ Document A/AC.115/L.276.

provided for in the draft resolution which they have submitted jointly with Finland [S/9891] may to some extent contribute to a solution of the question of Namibia, the Soviet delegation will support this draft resolution.

130. At the same time, we should like to repeat the reservations regarding paragraphs 10 and 12 of this draft which the Soviet delegation expressed in the Sub-Committee. The Soviet delegation doubts the advisability of extending the terms of reference of the United Nations Council for Namibia to include, *inter alia*, questions relating to the issuance of passports and visas. Quite apart from the fact that these questions fall strictly within the domestic competence of States Members of the United Nations, the extension of the activities of the Council for Namibia into this sphere would yield no appreciable or tangible results, would rather distract attention from urgent problems relating to the question of Namibia and might merely give rise to illusions in the minds of the Namibian people. This organ cannot make any progress in solving the problem of liberating the Namibian people, as long as the South African racists continue to rely on the aid and protection of the Western Powers, which are in fact supporting South Africa's domination of the Namibian people.

131. With regard to the recommendation in paragraph 12 of the draft, concerning the establishment of a United Nations fund for Namibia, the Soviet delegation sympathizes with the humanitarian aims of this proposal. As to the financing of the fund, however, the Soviet delegation considers that it should be financed exclusively from a special tax to be levied by States Members of the United Nations, particularly African States, on foreign companies operating both in the territories of these States and simultaneously in Namibia and South Africa.

132. The Soviet delegation wishes to express serious doubts concerning the draft resolution [S/9892] requesting an advisory opinion from the International Court of Justice on the question of Namibia. In our view, this proposal cannot be regarded as an effective measure which would help to drive the South African racists out of Namibia. Moreover, the adoption of such a decision would only delay the solution of the Namibian problem and create false illusions as to the possibility of solving it by legal means, rather than by serious political action on the part of the Security Council. The Soviet delegation will bear all these considerations in mind in determining its attitude to this draft resolution when it is put to the vote.

133. The Soviet Union has consistently advocated and still advocates the granting of independence to the people of Namibia without delay. Our country is strictly complying with the Security Council and General Assembly resolutions on South Africa and does not maintain any political, economic or any other relations with the racist South African régime.

134. In conclusion, the Soviet delegation would like to stress once again that it is essential for the Security Council to adopt effective measures for the practical implementation of decisions taken by the United Nations to bring independence to Namibia. The Security Council should first of all demand the cessation of all aid and support for the

racist South African régime from the Western Powers and their monopolies. The Soviet Union is in favour of the adoption by the Security Council of measures to force South Africa to comply with the decisions of the United Nations and compel it to leave Namibia.

135. Mr. KUŁAGA (Poland) (*interpretation from French*): In this statement, my delegation wishes to confine itself to the documents that have been submitted to the Council: the report of the *ad hoc* Sub-Committee [S/9863] established under resolution 276 (1970) prepared under the Chairmanship of Ambassador Terence of Burundi; and the two draft resolutions [S/9891 and S/9892], which are a reflection of the long and difficult negotiations that took place in the Sub-Committee.

136. It goes without saying that, as regards the substance of the problem of Namibia, we continue to maintain the position we have always maintained here in the Council and in our foreign policy: to put into effect the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, that is to say to grant freedom and independence to Namibia.

137. The main obstacle to the achievement of that objective continues to be the policy of aggression and expansion of the Republic of South Africa, a policy that we have so frequently denounced. One of the principal bulwarks of that policy is the economic, political and military assistance and co-operation provided to the Republic of South Africa by a number of Western Powers. I wished to mention these few guiding principles here, so that the following comments may be more readily understood.

138. The delegation of Poland will vote in favour of the draft resolution contained in document S/9891. We recognize the new elements which it introduces and which the representative of Syria, in particular, mentioned in the course of his statement. We shall vote in favour of that draft resolution despite the hesitations which other provisions of the draft call forth. In particular, we are mindful of the fact that the draft resolution concentrates its recommendations solely on the Territory of Namibia. To confine the question to those limits may be, technically speaking, defensible, but politically it is not.

139. We have always considered that it was impossible to deal with Namibia independently from the Republic of South Africa, the occupying Power, and that it is illusory to deal with the question of the economic relations maintained by many States with Namibia while at the same time disregarding their relations with the Republic of South Africa. It is as if one wished to do away with the hydra by paralyzing one of its tentacles while generously feeding the hydra itself. In fact, the impracticability of such an operation is amply demonstrated by the responses of certain States that continue to recognize the legal sovereignty of South Africa over Namibia in disregard of the United Nations decisions, States that do not even draw a distinction between economic relations with South Africa and those with Namibia and do not even keep separate statistics.

140. First and foremost, then, we question the effectiveness of the measures envisaged in a draft resolution the

provisions of which are limited to Namibia. We continue to hold that the realization of the United Nations objectives in respect of Namibia depends upon effective measures taken against the occupier of the Territory, the Republic of South Africa.

141. I shall not comment in detail on the other provisions of the text; we did so in the course of the meetings of the Sub-Committee. There are, however, two additional comments that I think might be in order. The first concerns the possible creation of a United Nations fund for Namibia. We have noted the fact that the Council for Namibia and many delegations as well have said that they favoured financing such a programme through the collection of a levy on the investments of foreign companies operating, in particular, in Namibia. We share that view. We for our part have provided and shall continue to provide the people of Namibia with direct assistance, including, among other things, scholarships, a form of assistance the effectiveness of which has been stressed by representatives of SWAPO.

142. Another thought comes to our minds regarding certain provisions of the draft resolution, particularly paragraphs 1 and 2 thereof. In paragraph 1 the Security Council:

“Requests all States to refrain from any relations—diplomatic, consular or otherwise—with South Africa implying recognition of the authority of the South African Government over the territory of Namibia”.

Paragraph 2 appears in the draft resolution, and I will not quote it.

143. We should not like to have those provisions interpreted by the Republic of South Africa as constituting even an indirect disavowal of the position taken by a large number of delegations in the United Nations that have called for a severance of economic and military relations with the Republic of South Africa itself. We are convinced that that is not the intention of the sponsors of the draft resolution. This at least is our interpretation.

144. I have mentioned some of the reasons why the Polish delegation would have preferred a stronger draft resolution. We are, however, very grateful to the sponsors of the draft and we appreciate the fact that it represents a step forward towards the final goal of the United Nations, that is the freedom and independence of Namibia. We shall therefore vote in favour of that draft resolution.

145. We have also very carefully considered the draft resolution presented by the delegation of Finland [*S/9892*]. We believe we understand the intentions of the Finnish delegation and its desire to bring out all aspects of the situation in Namibia. We have no objection to addressing a request to the International Court of Justice, although we have not forgotten the ruling which it handed down in July 1966—a ruling which Poland resolutely opposed.

146. We would, however, like to stress that as far as we are concerned the essential element for the achievement of the United Nations objectives in Namibia is action—political action in the broadest sense of the term, based on a

political and legal decision on the part of the United Nations to put an end to the Mandate of the Republic of South Africa and to declare illegal South Africa's presence there, as well as the measures taken by that Government on behalf of Namibia.

147. We have also borne in mind the statement by the President of SWAPO, Mr. Nujoma, and the questions which he raised in the Sub-Committee as regards the usefulness of measures that would only give the appearance of genuine action. Likewise, we have borne in mind the experience we gained as a result of the last request that was sent to the International Court of Justice, and the many years of debate which resulted in the ruling that was so severely and so justly criticized by many Governments, including the Government of Poland. In view of these reasons which we have most sincerely set forth, we shall abstain in the vote on the Finnish draft resolution.

148. Mr. TERENCE (Burundi) (*interpretation from French*): Mr. President, please excuse me for taking the floor again, but I should like to speak on the draft resolution presented by Finland [*S/9892*].

149. It is true that the advisory opinion contemplated in this draft is due to the initiative of the Finnish delegation and in a wider context this initiative would be a corollary to the other resolution already adopted.

150. However, it would not be correct to minimize the doubts and apprehensions held in African and other circles abroad which can be attributed to the very bitter disappointment so justly felt by the members of the Organization of African Unity as a result of the fate of the Namibian submission in 1966. Those apprehensions are fully justified in view of the fear felt in Africa and within the United Nations that this second submission may repeat the experience of the first. However, the International Court of Justice is now sitting in different circumstances. The advisory opinion requested by the Security Council is related to aspects which are not necessarily identical to those raised a few years ago. In that regard it would be proper to stress that the International Court of Justice, whose prestige was impaired by the partiality of some of its members in 1966, would gain in prestige by adopting a new attitude which would rehabilitate the Court and the United Nations as a whole.

151. In any case, a unanimous adoption of this measure by the Security Council would stimulate the deliberations of the Judges at The Hague. Of course at the present stage it would be premature to prejudge or try to foresee with any degree of mathematical accuracy the turn that the deliberations of that court might take. If the information available to the Security Council does not make it possible to foresee a favourable or an unfavourable result for this action, there is, however, always the hope that an impartial judgement, which would be in conformity with the inalienable rights of the Namibian people, would serve the twofold purpose of rehabilitating the International Court before the world opinion, which was so bitterly disenchanting, and also of harmonizing the position of the Court with the position taken by the General Assembly in putting an end to South Africa's Mandate over Namibia.

152. At any rate, whatever the result, my delegation believes that the political decision of the General Assembly with regard to the status of Namibia is irrevocable, because the political nature of the Namibian problem is such that it is definitely within the sphere of political solutions to be imposed by the Security Council and the General Assembly, as the most competent organs. Thus, it is in the recognition of the primary role of those two organs, the Security Council and the General Assembly, that my delegation will vote in favour of the draft resolution submitted to us.

153. Mr. MORALES-SUAREZ (Colombia) (*interpretation from Spanish*): Bearing in mind special circumstances to which members of the Council have drawn my attention, I withdraw my request for postponement of action on the draft resolutions submitted to the Council today.

154. The PRESIDENT (*interpretation from Spanish*): Speaking as representative of NICARAGUA, I am very pleased to say that I shall vote in favour of the draft resolutions which have been considered this afternoon by the Council.

155. Speaking as PRESIDENT, I see that there are no further speakers on my list. If no other representatives wish to take the floor at this time, I shall put to the vote the joint draft resolution sponsored by Burundi, Finland, Nepal, Sierra Leone and Zambia [S/9891].

A vote was taken by show of hands.

In favour: Burundi, China, Colombia, Finland, Nepal, Nicaragua, Poland, Sierra Leone, Spain, Syria, Union of Soviet Socialist Republics, United States of America, Zambia.

Against: None.

Abstaining: France, United Kingdom of Great Britain and Northern Ireland.

*The draft resolution was adopted by 13 votes to none, with 2 abstentions.*⁶

156. The PRESIDENT (*interpretation from Spanish*): We shall now proceed to vote on the draft resolution submitted by Finland [S/9892].

157. Mr. BOUQUIN (France) (*interpretation from French*): I have asked for the floor on a point of order. My delegation wishes to request a separate vote on the last phrase of paragraph 1 of the draft resolution submitted by Finland, reading as follows: "... notwithstanding Security Council resolution 276 (1970)". The request of my delegation is based on rule 32 of the rules of procedure. If the representative of Finland, the sponsor of the draft resolution does not object, I should be very grateful if the passage that I read out were put to the vote first.

158. Mr. PASTINEN (Finland): I am pleased to say that the Finnish delegation will have no objection to the request

⁶ See resolution 283 (1970).

of the delegation of France under rule 32 of the rules of procedure to have a separate vote on those words. Of course, my delegation will vote for their retention in the text.

159. The PRESIDENT (*interpretation from Spanish*): The representative of France has asked for a separate vote on the last phrase of the request to the International Court of Justice in paragraph 1 of the draft resolution contained in document S/9892. The Council would be voting separately on the following phrase: "... notwithstanding Security Council resolution 276 (1970)". The representative of Finland has said that he is not opposed to a separate vote on this phrase.

A vote was taken by show of hands.

In favour: Burundi, China, Colombia, Finland, Nepal, Nicaragua, Sierra Leone, Spain, Syria, United States of America, Zambia.

Against: None.

Abstaining: France, Poland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland.

By 11 votes to none, with 4 abstentions, the phrase "notwithstanding Security Council resolution 276 (1970)" was adopted.

160. The PRESIDENT (*interpretation from Spanish*): I shall now put to the vote the draft resolution contained in document S/9892 as a whole.

A vote was taken by show of hands.

In favour: Burundi, China, Colombia, Finland, France, Nepal, Nicaragua, Sierra Leone, Spain, Syria, United States of America, Zambia.

Against: None.

Abstaining: Poland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland.

*The draft resolution was adopted by 12 votes to none, with 3 abstentions.*⁷

161. The PRESIDENT (*interpretation from Spanish*): I now call on those representatives who have asked to be allowed to explain their vote.

162. Mr. BUFFUM (United States of America): The United States was pleased to vote in favour of the two resolutions just adopted by the Council. The substantial support which was accorded them is, we believe, a fitting tribute to the *ad hoc* Sub-Committee, whose work they endorse. We should like to make our congratulations to that Sub-Committee a matter of record.

163. On 20 May of this year my Government announced new policy steps which it intended to take to discourage

⁷ See resolution 284 (1970).

investment by our citizens in Namibia and to deny credit guarantees and other assistance for trade with that Territory. We are gratified to note that the economic measures which States are called upon to take in operative paragraphs 4 through 7 of the resolution contained in document S/9891 are consistent with and in fact, we believe, reflect the policy already enunciated and being implemented by my Government. In our view, such steps constitute a meaningful contribution to the Council's efforts to deal effectively with the problem of Namibia.

164. In explaining our vote, I must recall that the United States did not vote in favour of resolution 282 (1970) and therefore cannot join in its reaffirmation, as provided in preambular paragraph 6.

165. With respect to operative paragraphs 2, 10 and 12, the positions taken previously by my Government on the matters of substance dealt with in those paragraphs remain unchanged.

166. As for operative paragraph 2, my Government continues to maintain that Member Governments must be free to take appropriate action to protect their own citizens and to assist the people of Namibia.

167. On operative paragraph 10, I would merely say that my Government's position on General Assembly resolution 2248 (S-V) is well known.

168. Finally, I should reiterate what has already been said in the Sub-Committee, namely, that our support for operative paragraph 12 constitutes no undertaking on our part to contribute to a special fund for Namibia in the event such a fund is established.

169. My Government particularly welcomes the adoption of the resolution contained in document S/9892, which requests an advisory opinion of the International Court of Justice. This is the very first time that the Security Council has availed itself of the procedures contained in Article 96, paragraph 1, of the Charter, and we are most pleased at this historic development, which is consistent completely with the recommendations made by our own Secretary of State in a statement in New York last April,⁸ advocating greater use of this major organ of the United Nations. We believe that the international community has indeed a serious need for impartial and authoritative legal advice on the question of Namibia.

170. We recall that the Court, in its advisory opinions of 1950,⁹ 1955¹⁰ and 1956,¹¹ has already provided useful guidance to the Assembly on legal issues concerning Namibia, and we believe that the Court can and should now give the Council the benefit of its impartial and authori-

⁸ Made before the American Society of International Law on 25 April 1970.

⁹ *International status of South West Africa, Advisory Opinion: I.C.J. Reports 1950*, p. 128.

¹⁰ *South West Africa - Voting procedure, Advisory Opinion of June 7th, 1955: I.C.J. Reports 1955*, p. 67.

¹¹ *Admissibility of hearings of petitioners by the Committee on South West Africa, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956*, p. 23.

tative views both as to the duties of South Africa and the responsibility of other Members of the United Nations in light of resolution 276 (1970). In this connexion, we would wish to commend very warmly both the Government and the delegation of Finland for their vision and wisdom in raising this very important matter with the Council and, through it, with the International Court of Justice.

171. My delegation harbours no illusions that the two resolutions we have adopted today will solve the problem of Namibia, but we do believe that both of them, embodying as they do peaceful and practical steps, make a useful contribution to furthering our efforts to find a solution. Again, we congratulate the *ad hoc* Sub-Committee for its effective work and we look forward to further constructive suggestions from that Committee.

172. For its part, the United States will continue its efforts bilaterally to persuade South Africa to acknowledge United Nations responsibility for Namibia and we hope that other Members will do likewise.

173. Mr. BOUQUIN (France) (*interpretation from French*): My delegation wishes to explain its vote on the two draft resolutions which the Security Council had before it on the initiative of five Powers [S/9891] and of Finland [S/9892], following the submission of the report [S/9863] of the *ad hoc* Sub-Committee which was created under resolution 276 (1970) of the Security Council.

174. At the 17th meeting of the Sub-Committee our representative, while reassuring the authors that he was grateful for their work, set forth the reservations which he had on the recommendations of the *ad hoc* Sub-Committee and expressed once again the doubts of the French delegation which had already been expressed a few months earlier [1529th meeting] when resolution 276 (1970) was adopted.

175. The position of my Government on the important problem which the Council has once again considered today is in fact very well known. On many occasions the French Government has voiced its disapproval of the extension of a discriminatory and repressive policy to a Territory with international status.

176. Our traditions and our record show that France is opposed to these policies. We consider further that they are contrary to the spirit of the Mandate, for South Africa had an obligation to ensure "the material and moral well being" of the people over which it had authority and to lead them to self-determination. It is for this reason that, with the same clarity, my Government expressed its opposition to any initiative by Pretoria arbitrarily to divide the Territory or to incorporate it in the Republic of South Africa.

177. We are among those who believe that the international status did not come to an end with the disappearance of the League of Nations and cannot unilaterally be modified by the administering Power, and that it is only when the people exercise their right to self-determination that this will come to an end. On the other hand, it is doubtful that the United Nations, heir to the League of Nations, can claim to have powers exceeding those which

the League of Nations had. The Geneva Organization did not seem to be empowered unilaterally to deprive a country of its Mandate.

178. In view of these doubts, we were much interested in the initiative taken by the representative of Finland to request an advisory opinion on the question from the International Court of Justice. Of course, the—in our view—imperfect language of the request to the International Court may be a matter of regret. Without prejudging the opinion of the Court, it might be appropriate to leave it to the Judges at The Hague to question the legal foundations of the revocation of the Mandate.

179. It is, then, because we consider that it would make it possible for the International Court of Justice to clarify the legal position as regards the legality of the revocation that we have decided none the less to support the text.

180. However this may be, there can be no doubt that the mandatory Power disregarded its obligations and that the measures which it is planning to adopt, or has adopted, are in contradiction to the commitments flowing from Article 22 of the Covenant of the League of Nations and the Agreement signed on 17 December 1920 at Geneva.

181. The Security Council should bring the very serious matter of these wrongdoings to the attention of the authorities who are responsible and urge them to take a sounder view of their obligations. It would seem preferable in this difficult and complex matter, and in view of the legal position the soundness of which does not seem to have been established unquestionably, not to engage the authority of the United Nations in a course of action which in the past has proved likely to lead to an impasse.

182. Such initiatives, it must be confessed, have not helped to strengthen the prestige of the Organization. We are all aware that steps taken in the past in similar circumstances have hardly led to a solution of this irritating and difficult problem. The problem has in fact become even more serious due to the furtherance in the Territory of a policy which is deliberately contrary to the spirit of the Mandate and which we deplore and would like to see come to an end.

183. No matter how shocking the situation may be there is reason to fear that the first victims of this pointless series of actions and counteractions might well be the people themselves whose material and moral well-being was the objective of the Mandate because, above and beyond all controversies and procedures, we should be concerned with the fate of the people involved.

184. These are the considerations which have prompted my Government to take the position which it has adopted. While my delegation was not able for these reasons to vote in favour of the text presented by the five Powers, it was nevertheless in a position after expressing its reservations by abstaining in the separate vote on the question put to the Court, to vote in favour of the draft resolution put forward by Finland.

185. Mr. WARNER (United Kingdom): I should like to explain why my delegation has, with regret, abstained in the voting on each of the two draft resolutions.

186. Our basic position, on both the legal and the practical aspects of the question before us, has often been explained here in the past and it has in no way changed. First of all, we believe in the thought in the first paragraph of the preamble of draft resolution S/9891, namely, that the people of South West Africa have an undisputed right to self-determination. On the other hand, we have always seen certain difficulties about the way in which this Council has sought to help the people of Namibia to exercise that right. I explained to the Council on 30 January of this year [1529th meeting] why we found certain difficulties in the series of resolutions on South West Africa, and after that the United Kingdom representative to the *ad hoc* Sub-Committee drew attention to what I had said, both at the beginning and at the end of the Sub-Committee's discussions. I pointed out that we could hardly support a draft resolution whose basis lay in earlier resolutions on which we had already abstained in the past.

187. To those resolutions which caused us difficulty has now been added, in the case of the main resolution which has been voted on today, a reaffirmation of Security Council resolution 282 (1970) on which we abstained last week [1549th meeting].

188. I have also had occasion to point out the practical considerations that have to be faced and the need for the United Nations to act within its capabilities. I am very well aware that these views are not shared by all, but it must be admitted that none of the factors to which I have drawn attention in the past has changed since, and the Council will, I believe, understand that our reservations, therefore, remain with them. It is for these reasons that my Government has abstained today on the longer of the two draft resolutions.

189. As is known, my Government has doubts about the legal status of South West Africa; at the same time, as every speaker today has noted and deplored, South Africa is in fact controlling the territory of South West Africa. It is, of course, our view that full examination and clarification of the legal position would be desirable and helpful. In the *ad hoc* Sub-Committee the United Kingdom representative made it clear that my Government was quite willing to consider a request for an advisory opinion from the International Court of Justice. He did, however, add that our support for this depended upon the submission to the International Court of the issue of the status of South West Africa as a whole.

190. The question before us does not appear to do this. It is based on certain assumptions about the legal status of South West Africa which, in the opinion of my Government, ought themselves to be examined by the Court. These assumptions are not expressly stated in the question itself but they do clearly emerge from some speeches of the sponsors made in the *ad hoc* Sub-Committee and also today.

191. In the first place, there is a question whether, having regard to all the circumstances, the General Assembly was competent to terminate the Mandate over South West Africa as it claimed to do by virtue of General Assembly resolution 2145 (XXI).

192. In the second place, if it were established that the General Assembly was so competent to terminate the Mandate, there would remain a question whether it was entitled to vest in the United Nations responsibility for the Territory.

193. These questions pose complicated legal issues which have not hitherto been the subject of any decision or advisory opinion of the International Court. My Government regrets that the question which it is now proposed to submit to the Court is constructed in such a fashion that the Court might feel itself inhibited from pronouncing on the more fundamental issues concerning the present status of South West Africa. It is for these reasons that my Government has abstained on the request for an advisory opinion as expressed in the shorter draft resolution.

194. The PRESIDENT (*interpretation from Spanish*): The resolutions which we have just adopted are beyond any doubt a new step which the Security Council has taken in the necessary search for feasible solutions which in one way or another may contribute to safeguarding the interests of international peace and security.

195. We should like to thank the Sub-Committee presided over by the representative of Burundi for the very careful work it did so unselfishly. I wish to convey an expression of our thanks to the Vice-Chairmen, the Ambassadors of Finland and Nepal, and to the other members on the Committee. I also should like to thank all members of the Security Council for their co-operation during the deliberations in the Security Council this afternoon. Since I have no further speakers listed and if no other representative wishes to take the floor, I propose to adjourn the meeting.

The meeting rose at 7.5 p.m.