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CONTENTS

	<i>Page</i>
Provisional agenda (S/Agenda/1391)	1
Adoption of the agenda	1
The question of South West Africa:	
Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, United Arab Republic, Yugoslavia and Zambia (S/8397);	
Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Ghana, Guinea, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Mali, Mauritania, Morocco, Nepal, Niger, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sudan, Syria, Thailand, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Yemen (S/8398 and Add.1/Rev.1 and Add.2)	1

THIRTEEN HUNDRED AND NINETY-FIRST MEETING

Held in New York on Friday, 16 February 1968, at 4 p.m.

President: Mr. Miguel SOLANO LOPEZ (Paraguay).

Present: The representatives of the following States: Algeria, Brazil, Canada, China, Denmark, Ethiopia, France, Hungary, India, Pakistan, Paraguay, Senegal, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America.

Provisional agenda (S/Agenda/1391)

1. Adoption of the agenda.

2. The question of South West Africa:

Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, United Arab Republic, Yugoslavia and Zambia (S/8397);

Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Ghana, Guinea, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Mali, Mauritania, Morocco, Nepal, Niger, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sudan, Syria, Thailand, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Yemen (S/8398 and Add.1/Rev.1 and Add.2).

Adoption of the agenda

The agenda was adopted.

The question of South West Africa:

Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, Turkey, United Arab Republic, Yugoslavia and Zambia (S/8397);

Letter dated 12 February 1968 addressed to the President of the Security Council by the representatives of Afghanistan, Algeria, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Ghana, Guinea, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Mali, Mauritania, Morocco, Nepal, Niger, Philippines, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sudan,

Syria, Thailand, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta and Yemen (S/8398 and Add.1/Rev.1 and Add.2)

1. The PRESIDENT (*translated from Spanish*): I wish to inform the members of the Security Council that I have received requests from the representatives of Guyana, Turkey, Chile, Indonesia, Yugoslavia, Nigeria, the United Arab Republic and Zambia to participate without vote in the discussion of the item on our agenda. In accordance with the usual practice, and with the consent of the Security Council, I suggest that those representatives be invited to participate in the discussion without vote.

2. As there are not enough seats at the Council table for all the representatives who have asked to take part in our deliberations, I would suggest that the Council should follow the usual practice, namely, that it invite the representatives of Guyana, Turkey, Chile, Indonesia, Yugoslavia, Nigeria, the United Arab Republic and Zambia to take the seats reserved for them at the side of the Council Chamber, it being understood that when one of them wishes to address the Council he will be invited to take a place at the Council table.

3. If I hear no objection I shall consider that the Council agrees to this procedure.

It was so decided.

At the invitation of the President, Mr. E. A. Braithwaite (Guyana), Mr. O. Erlap (Turkey), Mr. J. Piñera (Chile), Mr. H. R. Abulgani (Indonesia), Mr. Z. Jazić (Yugoslavia), Mr. B. A. Clark (Nigeria), Mr. M. A. El Kony (United Arab Republic) and Mr. I. R. B. Manda (Zambia) took the places reserved for them at the side of the Council chamber.

4. The PRESIDENT (*translated from Spanish*): As the members of the Security Council are aware, this meeting has been called at the request of eleven Member States signatories of a letter dated 12 February 1968 [S/8397]. Forty-seven other Member States endorsed that request by signing a letter dated 12 February 1968 [S/8398 and Add.1/Rev.1 and Add.2].

5. A letter has also been received from the President of the United Nations Council for South West Africa, dated 9 February 1968 [S/8394]. I should further like to draw the Council's attention to the report of the Secretary-General dated 13 February 1968 [S/8399], transmitted in accordance with Security Council resolution 245 (1968) which the Council adopted at its 1387th meeting, on 25 January 1968.

6. Yesterday afternoon I received other communications relating to the item on our agenda for today. I have received a letter from the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples dated 15 February 1968 [S/8410] and a letter from the Chairman of the Commission on Human Rights dated 15 February 1968 [S/8411]. In addition, I should like to remind the members of the Council that the Secretary-General has submitted a report dated 25 January 1968 containing communications [S/8357 and Add.1-8] from Member States and organizations regarding the measures they have taken to implement General Assembly resolution 2324 (XXII) and Security Council resolution 245 (1968).

7. The Security Council will now take up the item on its agenda. The first speaker on my list is the representative of Pakistan, and I call on him to speak.

8. Mr. SHAHI (Pakistan): On 9 February 1968 the United Nations Council for South West Africa received with profound shock and indignation the news of the sentences passed that day on thirty-three of the thirty-four South West Africans whom the South African authorities had continued to detain and try illegally on charges under the South African Terrorism Act of 1967¹ and the Suppression of Communism Act, No. 44, of 1950, in defiance of General Assembly resolution 2324 (XXII) and Security Council resolution 245 (1968).

9. This resolution of the Security Council gave solemn expression to the Council's grave concern over the fact that the Government of South Africa had ignored world public opinion as reflected in General Assembly resolution 2324 (XXII) by refusing to discontinue the illegal trial which was being held under arbitrary laws whose application had been illegally extended to the Territory of South West Africa in defiance of the General Assembly resolutions. Conscious of the special responsibilities of the United Nations towards the people and Territory of South West Africa, the Security Council unanimously adopted resolution 245 (1968) the operative part of which is as follows:

"1. *Condemns* the refusal of the Government of South Africa to comply with the provisions of General Assembly resolution 2324 (XXII);

"2. *Calls upon* the Government of South Africa to discontinue forthwith this illegal trial and to release and repatriate the South West Africans concerned;

"3. *Invites* all States to exert their influence in order to induce the Government of South Africa to comply with the provisions of the present resolution;

"4. *Requests* the Secretary-General to follow closely the implementation of the present resolution and to report thereon to the Security Council at the earliest possible date;

"5. *Decides* to remain actively seized of the matter."

¹ Act to Prohibit Terroristic Activities and to Amend the Law relating to Criminal Procedure; and to Provide for Other Incidental Matters. Act No. 83 of 1967.

10. It is to the situation created by the violation and defiance of all these injunctions of the Security Council by South Africa, as reflected by the sentences inflicted on the South West Africans, that the Security Council is now called upon to address itself.

11. On the same day that the news of the sentences was received, that is, on 9 February 1968, the United Nations Council for South West Africa, as the authority charged by the General Assembly to administer the Territory until independence, expressed its deep distress on account of the continued violation of the fundamental rights of the South West Africans by South Africa. As President of the Council for South West Africa I addressed a letter [S/8394] to you, Mr. President, communicating the unanimous view of the United Nations Council for South West Africa that the outrageous action constituted a flagrant violation by South Africa of the General Assembly and Security Council resolutions, as well as of the authority of the United Nations, of which South Africa is a Member. I expressed the views of the Council for South West Africa in the following words:

"Since the Government of South Africa has disregarded the will of the General Assembly and the unanimous decision of the Security Council, it is the view of the United Nations Council for South West Africa that the Security Council, as the highest authority of the United Nations, should consider taking appropriate action. To this end, the members of the United Nations Council for South West Africa have reached a unanimous decision to address a letter to you on behalf of their Governments, requesting you to convene an urgent meeting of the Security Council."

12. Three days later, that is, on 12 February, the eleven members of the United Nations Council for South West Africa requested the President of the Security Council, on behalf of their respective Governments and in view of their common concern as members of this Council, to convene an urgent meeting of the Security Council, to consider the situation resulting from the continuation of the illegal trial of the thirty-four South West Africans and the sentences handed down on 9 February on thirty-three of them in violation and defiance of General Assembly resolution 2324 (XXII) and Security Council resolution 245 (1968). Forty-seven other Member States of the United Nations have supported the request of the eleven members of the United Nations Council for South West Africa, to convene this urgent meeting.

13. At the 1387th meeting of the Security Council on 25 January 1968 before the adoption of resolution 245 (1968), the representative of the United States said:

"Today ... is indeed a historic occasion. This is so because it marks the first time in the history of this Organization that the Security Council has been seized of problems relating directly to South West Africa."

14. Let me briefly set forth the background of our present debate.

15. In resolution 2145 (XXI) adopted by the General Assembly on the question of South West Africa, the

General Assembly, reaffirming the inalienable right of the people of South West Africa to freedom and independence and convinced that the administration of the Mandated Territory of South West Africa by South Africa had been conducted in a manner contrary to the Mandate, the Charter of the United Nations and the Universal Declaration of Human Rights, and considering that all the efforts of the United Nations for many years to induce the Government of South Africa to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the well-being and security of the indigenous inhabitants had been of no avail, decided to terminate the Mandate of the Government of South Africa and declared that South Africa had no other right to administer the Territory and that from that time South Africa had come under the direct responsibility of the United Nations.

16. In a subsequent resolution, 2325 (XXII), the General Assembly requested the United Nations Council for South West Africa, established under its resolution 2248 (S-V) of 19 May 1967, to fulfil, by every available means, the task of administering the Territory entrusted to it by the General Assembly. Further, the General Assembly called upon the Government of South Africa to withdraw from the Territory of South West Africa, unconditionally and without delay, all its military and police forces, as well as its administration, and to release all political prisoners and to allow all political refugees who are natives of the Territory to return to it.

17. In its resolution 2325 (XXII), the General Assembly requested the Security Council to take effective steps to enable the United Nations to fulfil the direct responsibility it has assumed with respect to South West Africa and to take all appropriate measures to enable the United Nations Council for South West Africa to discharge fully the functions and responsibilities entrusted to it by the General Assembly.

18. I have already set forth the action taken by the Security Council in resolution 245 (1968) which it adopted unanimously. As mentioned earlier, this was the first time in the history of the Organization that the Security Council became seized of the problems relating directly to South West Africa.

19. The Security Council is now faced with a clear violation and defiance of its resolution 245 (1968), adopted on 25 January. This situation calls for nothing less than to ensure the full implementation of this resolution. This Council must act to put an end to the trial at Pretoria and to secure the release and repatriation of the South West Africans who have been illegally sentenced under laws which are a disgrace on the statute book, which are contrary to the general principles of law recognized by all civilized nations, and which are abhorrent to the humane traditions of law and justice of Western civilization, to which the Government of South Africa proudly claims to belong.

20. While the Security Council is considering the grave situation following the outrageous conviction of the South West African patriots at Pretoria, it may be pertinent to quote the poignant words of one of them, Taivo Herman Ja Taivo, who stated at this trial:

“We are Namibians and not South Africans. We do not now, and will not in the future, recognize your right to

govern us, to make laws for us in which we had no say, to treat our country as if it were your property and us as if you were our masters. We have always regarded South Africa as an intruder in our country. This is how we have always felt, and this is how we feel now, and it is on this basis that we have faced this trial.”

21. Other words have been spoken and written all over the world on this illegal trial and on the legislation, substantive and procedural, which the Pretoria court has applied. Retrospective effect has been given to criminal laws enacted after the alleged offences were committed, the burden of proof has been shifted from the shoulders of the prosecution to the defendants, and many other norms and rules of law recognized in the legal systems of the civilized world have been violated. The opinion of all mankind has condemned the travesty of law and elementary justice and the violation of basic human rights perpetuated by the Government of South Africa by the Terrorism Act and the Suppression of Communism Act and the conduct of the so-called trial. The Security Council cannot therefore remain silent or passive, it must speak and act, and act promptly and effectively.

22. The Security Council cannot afford to fail—it must not fail—in the discharge of its responsibility under the Charter of the United Nations. Equally, it must not fail to uphold the authority of the General Assembly, which has established the United Nations Council for South West Africa and entrusted it with the task of administering the Territory of South West Africa until independence.

23. In resolution 245 (1968), the Security Council has taken note of General Assembly resolutions 2145 (XXI) and 2324 (XXII) and has also declared itself to be “conscious of the special responsibilities of the United Nations towards the people of the Territory of South West Africa”.

24. This recognition encourages all States Members of the United Nations to hope that the Security Council will squarely meet the challenge posed to its authority by the Government of South Africa.

25. The eleven members of the Council for South West Africa and the forty-seven other Member States who have supported their request for this meeting of the Security Council, as well as the majority of the Members of this world Organization, fervently hope that the Security Council will take early and effective action to deal with the situation created by the defiance by South Africa of Security Council resolution 245 (1968). It is also the hope of these Member States that all Members of the United Nations, under the obligation that they have assumed under the provision of the Charter of the United Nations to respect and give effect to the will of the Security Council, and in particular those Member States which maintain relations with the Government of South Africa, will exert all their influence and strength to make South Africa comply with the obligations of its membership of the United Nations.

26. In this context, my delegation considers that it is both right and necessary for us to thank and express our appreciation to those Members of the United Nations who

have exerted themselves to bring home to the Government of South Africa its duty to give heed to Security Council resolution 245 (1968).

27. If I may now speak for my Government, the Security Council has a clear duty to condemn the South African Government for its defiance. South Africa should be called upon to revoke immediately the sentences that it has passed on the South West Africans, and to release and repatriate them without delay. Further, the Security Council must emphasize that continued refusal by South Africa to implement the resolution of the Security Council cannot be tolerated and, if persisted in, will oblige the Council to consider more drastic steps that are envisaged in the Charter of the United Nations, to secure compliance on the part of the defiant Member State.

28. To this end, it is necessary to request the Secretary-General to follow closely the implementation of any action that the Security Council will take as a result of this debate and to report thereon to the Security Council by a specified early date. At the same time, the Security Council must remain actively seized of the matter.

29. I must stress that it has been Pakistan's consistent viewpoint, based on a realistic appreciation of the situation in South West Africa and reinforced by the United Nations experience for over twenty years in dealing with the South African Government, that that Government cannot be brought to heel, or persuaded to see reason, except by the adoption of enforcement measures envisaged in Chapter VII of the United Nations Charter. Such measures were at one time contemplated in the African-Pakistan proposal,² which was submitted to the fifth special session of the General Assembly when it was dealing with the question of South West Africa. At the 1504th meeting of the General Assembly, on 25 April 1967, I said the following:

"The question may be asked: does the African-Pakistan proposal reflect a realistic approach to the problem of overcoming the defiance of the Republic of South Africa towards the attempt of the United Nations to discharge the sacred trust of civilization that it has now assumed on behalf of the people of South West Africa? Is it realism to expect the Security Council to take measures under Chapter VII of the Charter to rescue that Territory from one of the worst forms of misrule and oppression, in fulfilment of that sacred trust?"³

My delegation had in turn put a counter question to these questions:

"Is it, then, realistic to expect that South Africa would enter into contacts and a dialogue with United Nations organs to reach agreement on the transfer of South West Africa to the United Nations administration, or even to permit the establishment of a nucleus of self-government within the Territory? There can hardly be any doubt about the answer."⁴

² *Official Records of the General Assembly, Fifth Special Session, Annexes*, document A/6640, paras. 45 and 82.

³ *Ibid.*, *Fifth Special Session, Plenary Meetings*, 1504th meeting, para. 37.

⁴ *Ibid.*, para. 39.

30. We did not at that time insist on our proposal for the application of measures under Chapter VII in the interest of a wider agreement. Subsequently, the Council for South West Africa gave an opportunity to the South African Government to enter into a dialogue for the handing over of the administration of South West Africa to the United Nations. But the Council was rebuffed. The persistent defiance shown by the Pretoria régime leaves no doubt in our minds that the necessary elements of deterrence and compulsion will have to be introduced in the near future, in dealing with the Government of South Africa.

31. The eyes of the world are upon us. This Organization and this Council represent practically all the great civilizations and humane legal systems of the world. The peoples of the world expect the Security Council to uphold and vindicate the values and the aspirations of humanity through the ages, of which we are the legatees, in the face of the unspeakable conduct of a so-called civilized State which time after time seems determined to give proof of its unworthiness to be a Member of the United Nations.

32. Mr. CISS (Senegal) (*translated from French*): Scarcely a month ago, on 25 January 1968, the Security Council unanimously adopted resolution 245 (1968), under which the Government of South Africa was called upon to discontinue forthwith the illegal trial of South West African nationals. That trial, as we all know, took place in defiance of General Assembly resolution 2145 (XXI) which, ever since the historic date of 27 October 1966, has placed South West Africa under the direct responsibility of the United Nations.

33. Today the Security Council is meeting once again, not for the purpose of acknowledging the South African Government's desire to comply with these resolutions by freeing the political detainees who have been illegally arrested, deported and brought to trial in South Africa, but in order to discuss the challenge once again hurled at this international Organization by the Pretoria Government, whose Supreme Court has just pronounced the severest sentences upon the South West African nationals under discussion.

34. The sentence handed down against the thirty-three South West African nationals by the Supreme Court of Pretoria provides ample proof that the racist authorities of South Africa hold United Nations decisions in contempt and that the South African Government has no intention of honouring the commitments which it freely undertook by signing the Charter of the world Organization. This illegal sentence had rightly aroused the indignation of the international community, and the Commission on Human Rights has acted immediately and unanimously by sending the South African Government a telegram, from which I quote:

"The Commission on Human Rights expresses its deep indignation at the fact that the Republic of South African has defied the international community by sentencing these South West Africans after an illegal trial and under the 'Terrorism Act'—a law which has been rejected by the whole international community as contrary to the prin-

principles of the Charter of the United Nations and the Universal Declaration of Human Rights." [S/8411.]

35. I would add that this Terrorism Act, which makes it possible arbitrarily to condemn South African and South West African nationals, must be abolished immediately.

36. The Commission on Human Rights has also called upon the Government of South Africa immediately to release the South West Africans who have been illegally sentenced.

37. The Secretary-General was requested to bring the consensus unanimously approved by the Commission on Human Rights to the attention of the South African Government, and did so by cable. As far as my delegation is aware, the Commission has not yet received any reply from the South African Government to the cable, from which I have just quoted.

38. It is obvious that the numerous repressive laws of South Africa which are being illegally applied to South West Africa are intended to shake the determination of the great African majority in its just struggle for political and racial equality.

39. That alone is the aim of the Terrorism Act, which was adopted in haste in 1967, with retroactive effect, in order to make possible the trial of South West African nationals. There is no doubt that the South West Africans will only swell the ranks of the thousands of their brothers who are already mouldering in South African prisons in conditions far below the minimum standards for the treatment of prisoners.

40. The *Ad Hoc* Working Group of Experts, set up in accordance with resolution 2 (XXIII) of the Commission on Human Rights, concluded in its report, among other things, that:

"Food, sanitary conditions, clothing, bedding and accommodation in South African prisons fall short, lamentably, of all international and civilized standards."⁵

41. I recommend members of the Security Council to read this important report by the *Ad Hoc* Working Group, which is composed of eminent jurists from all over the world.

42. But let South Africa make no mistake: no power, not even that of Pretoria, can check the irreversible movement of decolonization; for the African national liberation movements, because their cause is just, will undoubtedly prevail over the European minority—by which we mean South Africa, Portugal and Southern Rhodesia—which is seeking to maintain its colonial domination over thousands of Africans in southern Africa.

43. Nothing is more likely to prolong the sufferings of a people subjected to an increasingly vicious form of repression than the tergiversations of this international Organization. Since South Africa does not understand the language of reason, it is essential that the Security Council act speedily and effectively by giving its decisions the force of law.

44. We repeat, it is not enough to condemn South Africa for its defiance of the international community; nor is it a matter of a simple appeal to the Pretoria Government that it set the political prisoners free; we must still make that appeal although we know that it will immediately be ignored. The Security Council must go further and demand that the South African Government respect the decisions of the United Nations. If the racist Government in Pretoria ignores the injunctions of the Security Council, the latter must take enforcement action under Chapter VII of the Charter.

45. But is it necessary to say that such action can be taken only with the consent of the great Powers which have special responsibilities under the United Nations Charter?

46. These Powers, especially those which have trade relations with South Africa, must co-operate with the other members of the Security Council in order to preserve the prestige of this Organization by demanding that its decisions are respected. Then South Africa will weigh the grave consequences of its defiance of the United Nations and will understand that the Member States are prepared to act in unison to enable the international Organization to administer South West Africa effectively and help the people of that Territory accede to independence.

47. Mr. BORCH (Denmark): Mr. President, may I use this opportunity first to welcome you to the Chair and to assure you of our complete confidence and full co-operation.

48. On 9 February the thirty-three South West Africans standing trial in Pretoria in their struggle for the freedom of their country were sentenced to harsh prison terms. Twice in recent times, first in General Assembly resolution 2324 (XXII) and then in Security Council resolution 245 (1968), the United Nations has clearly established that that trial is illegal. The former resolution condemned it as a flagrant violation of the international status of South West Africa and called upon the Government of South Africa to discontinue the trial, and the latter resolution reiterated that call and condemned the refusal of the Government of South Africa to comply with the provisions of the General Assembly resolution.

49. My country supported both of these resolutions. We fully subscribed to their terms and we firmly maintain that position. We have through appropriate channels urgently called upon the Government of South Africa to comply with the resolutions of the United Nations. And today we protest in the strongest possible terms against the continued persecution and now even conviction of the South West Africans in question.

50. General Assembly resolution 2324 (XXII) was adopted, practically speaking, unanimously by the General Assembly. Security Council resolution 245 (1968) was adopted unanimously. Thus, there can be no doubt that the overwhelming majority of world opinion stands firmly behind the United Nations in this matter and shares our disgust and indignation at the outcome of this mock trial.

51. On more than one occasion the Government of South Africa has let it be known that it maintains the legality of the trial against the South West Africans, and that the trial

⁵ Document E/CN.4/950, para. 1127.

has taken place under circumstances which are compatible with common civilized norms on fair and proper legal proceedings.

52. I do not believe that anyone around this table can accept such allegations. Be that as it may, the Government of South Africa is acting clearly in both an arrogant and ruthless manner in its continued defiance in word and in deed of the demands of the world community.

53. We live in a world of interdependence, and no country can cut itself off from the main streams of political and humane thinking in the world at large without running the risk of seriously inflicting damage to itself and to its people. Quite apart from the issue before us, the Government of South Africa would do well to give thought to such considerations.

54. Our main concern today is the South West African prisoners, tried and convicted under no laws of their own and kept in jail and in exile. Taking into consideration certain basic facts, I think that we have to realize that if positive and good results are to be derived from our deliberations today it is of the utmost importance that whatever steps we take, they be taken in concerted action. I am afraid that any other approach will be a recipe for failure.

55. My delegation is ready and eager to enter into what we sincerely hope will prove to be fruitful consultations, with a view to obtaining unanimous agreement in the Council concerning what further constructive move shall be taken to secure the release and repatriation of the thirty-three South West Africans now in jail in South Africa.

56. Mr. IGNATIEFF (Canada): Mr. President, may I, in my turn, offer you our welcome on your accession to the high office of President of the Council, and at the same time assure you of the co-operation of the delegation of Canada. May I also pay a very sincere tribute to your distinguished predecessor.

57. Once again we are considering the plight of the South West Africans who have been under trial in Pretoria with the result, as we know, that nineteen of them have been sentenced to life imprisonment. There is little that I can add concerning the trial which has not been said, but I shall recall the statement I made in the General Assembly⁶ that the Act under which the trial was conducted is retroactive, that it is vague in describing the offences it covers, that it places the onus of proving innocence on the accused, and that the provisions of the Act represent a deplorable denial of fundamental human rights. I asked then why were these citizens of South West Africa on trial in Pretoria and what manner of justice was being dispensed, and I said that the United Nations had a right to know the answers. Well, we have an answer of a kind; it has been referred to in previous statements.

58. The delegation of Canada has also supported the call of the Council to discontinue the illegal trial and release and repatriate the South West Africans. As we have recently informed our Secretary-General, we arranged for the

presence at the trial of a member of the Canadian Embassy in Pretoria, and our views regarding the status of South West Africa and the treatment of its inhabitants have been presented directly to the Government of South Africa. We have therefore exerted our influence, as requested by the Security Council and by the General Assembly, in order to induce the Government of South Africa to comply with the resolutions of the General Assembly and the Security Council.

59. The Security Council, as has been said, has already unanimously expressed its collective view on the arrests and the trial. My Government has consistently taken the position that on this question, United Nations action, to be effective, must be based on the maximum weight of approval possible among the membership of the United Nations. In this, I entirely agree with my colleagues who have spoken before me, particularly the representative of Denmark. I agree that the Council should act promptly and effectively; but to be effective, I think it is particularly important that action taken by the Security Council should command the support of the whole of its membership. It is in this light that my delegation will study all proposals that may be put forward in the further consideration of this question.

60. Mr. GOLDBERG (United States of America): I associate my delegation, and myself personally, in full measure with the remarks of my colleagues concerning the very effective and objective leadership which the representative of Pakistan, Ambassador Shahi, displayed during his tenure as President of the Council, during a period of great international crisis and one of particular concern to my Government.

61. I wish also to welcome you, Mr. President, to your post, the duties of which you have already demonstrated you are discharging with the great skill and statesmanship that one who has known you for some time has learned to expect of you.

62. We meet here today to consider the question of thirty-three South West Africans convicted, as one of them accurately said, in a foreign land, in a foreign language, by the court of a foreign Government, on charges which must also be described as foreign.

63. The defendants have been brought to trial under laws effectively denying them elementary human rights. Heavy sentences have been imposed upon thirty of them convicted under the so-called Terrorism Act. This Act is, in a sense, aptly named; it is designed to terrorize innocent peoples. They had already, even before trial, suffered thousands of hours in solitary confinement, without contact with their families and without access to counsel. These thirty now face the bleak prospect of imprisonment, ranging up to life, in South African prisons. Those who pleaded guilty under the Suppression of Communism Act live under the shadow of five-year suspended sentences.

64. Nor is that all. Although those already convicted have escaped the death penalty, the trial judge, Judge Ludorf, has issued a public warning that "in the future our Courts will not necessarily hesitate to inflict the death sentence". It is obvious that the sentences already imposed, and the

⁶ Official Records of the General Assembly, Twenty-second Session, Plenary Meetings, 1624th meeting.

Judge's warning, all serve the purpose of South Africa to deter South West Africans from undertaking peaceful political action in order to participate in the government of their own affairs. It is also obvious that the South African authorities are hoping, by police-state measures exemplified by the Terrorism Act of 1967, to neutralize political opposition from such organizations as the South West Africa People's Organization, so that the South African Government may proceed unhindered in South West Africa with its policy of *apartheid* and with its strategy of "divide and rule".

65. The United States has made its view clear with respect to these trials. It is a view we share with the international community, including outstanding jurists and lawyers of exemplary repute throughout the world. We believe that South Africa's action in applying its own Terrorism Act to South West Africa—an international Territory over which South Africa's Mandate has been terminated by its own violations—is contrary to the international obligations of the Government of South Africa, to the international status of the Territory, to international law, and to the fundamental rights of the inhabitants.

66. Obviously, the most recent developments give us no grounds to change this view or to diminish our concern; in fact, our concern is heightened by what has occurred. We still maintain our stated position that the defendants, and any other South West Africans held under the Terrorism Act, should be released and repatriated without delay.

67. Through its actions and statements South Africa has cloaked itself in a mantle of seeming legality. But is this mantle really one of legality—and, to go one step further, of international responsibility? It is not. The legal justifications for its actions are spurious. Not only do these actions run contrary to actions by the political organs of the United Nations, but, in addition, the International Court of Justice has also made clear the international responsibility of South Africa with respect to the Territory. This responsibility is such that even when South Africa administered South West Africa under the Mandate, its authority was conditioned by certain plain obligations—including the obligation to look to the welfare of the inhabitants. Surely, by applying its *apartheid* laws in the Territory it did not honour but rather breached that obligation. Now that its Mandate is at an end, it cannot invoke even such a conditional authority.

68. Another plain legal flaw appears in the *ex post facto* provision of the Terrorism Act, a provision which was invoked in the recent trial against the defendants. This provision troubled the court itself, to the point where the judge specifically cited the retroactive effect of the law as reason for not imposing the death penalty. However, having shown judicial concern on this point, the judge then sought to justify severe prison sentences by taking into account common law crimes which he considered might have been committed. And this was done despite the fact that the defendants had neither been charged nor prosecuted for common law crimes and hence had no opportunity to defend themselves on such charges or to avail themselves of the important ordinary legal safeguards appropriate to such a defence.

69. A further cause for concern appears in reports in the South Africa Press of charges, supported by sworn affidavits, that several South West Africans have been subjected to brutal and inhuman treatment by the South African police during detention. Among these reported affidavits are some by the defendants in the recently concluded trial.

70. One would have hoped that these charges, bearing as they do on the treatment accorded to persons on trial for their lives, would be fully aired before the conclusion of the trial. Instead, despite the strenuous objections of defence counsel, the hearing on these affidavits was postponed until after the trial and sentencing had been concluded.

71. In sum, having been tried in a foreign court under an invalid law, the defendants were in effect sentenced upon charges other than those for which they had been prosecuted—and without some of the most important safeguards normally available to the defence.

72. Against that background of injustice, my Government views with serious concern recent reports in the South African press that other alleged terrorists have been arrested under this same Terrorism Act and are now being held by the police. We all recall that the alleged co-conspirators listed in the proceedings of the recent trial numbered eighty-one. In view of Judge Ludorf's reference to future trials, we cannot with equanimity ignore this possibility.

73. I come now to the question of what further action can and should be taken. This Council, in resolution 245 (1968), has already unanimously condemned South Africa's actions in this matter. We now face the difficult problem of how best to bring practical relief to those South West Africans who have been sentenced, and to others who may be detained and charged.

74. My Government has given careful thought to this matter, and today we should like to make some suggestions for the consideration of the Security Council. We have no doubt that suggestions will likewise be made by other members in the course of this debate, and they will receive the earnest attention of my delegation. Our suggestions are these.

75. First, the United Nations through its appropriate organs, including the Secretary-General, and individual Members of the Organization should continue and increase their efforts to persuade the South African Government of the wrongness of its actions and to secure the release and repatriation of those South West Africans who are illegally detained in South Africa. I should like to advise members of the Council that my own Government, pursuant to General Assembly resolution 2324 (XXII) and Security Council resolution 245 (1968), has made clear its position directly to the Government of South Africa and will continue to do so.

76. Second, it is important to divest the South African Government of the cloak of legality which it has put on to cover up its invalid actions. Several representatives, including those of Finland, Sweden and Yugoslavia, have suggested recourse in this matter to the International Court of Justice. In my delegation's view, that suggestion is worthy of exploration by the members of the Council.

77. Third, earlier this week it was suggested in the Commission on Human Rights that a special representative of the Secretary-General might be dispatched to South Africa to undertake all possible humanitarian measures to alleviate the unfortunate conditions now prevailing in the area. This suggestion was well received. Encouraged by the response of several members of the Commission, my delegation would like to offer the suggestion for the consideration of the Security Council. Such a special representative could perform a most useful service in regard to the grave issue we now face.

78. Fourth, every additional effort should be made to ensure humane treatment of those South West Africans detained by South Africa. All Governments, including the Government of South Africa, which is a party to the Geneva Conventions of 12 August 1949,⁷ should recognize the special impartial and humanitarian role of the Red Cross. Indeed, South Africa has recently availed itself of Red Cross assistance in connexion with its prisons. I suggest that it would be wholly appropriate for this Council to request that the International Committee of the Red Cross be invited by the South African Government to have full, continuing and unimpeded access to each South West African who has at any time been detained under the Terrorism Act of 1967. We believe this step should be taken concurrently with the efforts to obtain the release and repatriation of those South West Africans who are wrongfully detained.

79. Fifth, this Council should reaffirm the action it took when it adopted its recent resolution.

80. I recently read with interest in an official publication of the Government of South Africa, *South African Panorama*, an article about the Appellate Division of the Supreme Court entitled "Symbol of Legal Majesty". This article says: "South Africa's legal system is designed to ensure justice for all". History will judge whether that claim can be sustained. But we have a legal aphorism in my country which I think is pertinent now: "Justice delayed is justice denied".

81. It is time for all who believe in the rule of law to call upon South Africa, once again, to secure justice for those who have been detained under this invalid law—and without further delay.

82. Mr. CSATORDAY (Hungary): Mr. President, may I join you in congratulating our President for the month of January, the Permanent Representative of Pakistan, Mr. Shahi, who discharged his difficult task in an admirable manner, displaying high-level statesmanship by his tact, patience, understanding and perseverance not only at our open meetings but during those long consultations as well. It greatly enhanced the efforts leading to the lessening of tension on some very important international problems.

83. At the same time it is a great pleasure to see you, Mr. President, an experienced colleague, assuming the heavy duty of presiding over our meetings in February. We are convinced that your wisdom and tenacity will greatly contribute to the successful conclusion of the important tasks facing the Security Council. In the spirit of the

Charter I offer you the Hungarian delegation's unreserved co-operation.

84. The Security Council is again called upon to deal with the situation arising out of the refusal of the Government of the Republic of South Africa to comply with Security Council resolution 245 (1968) that was adopted on January 1968. In that resolution which the Council adopted unanimously the Security Council condemns "the refusal of the Government of South Africa to comply with the provisions of General Assembly resolution 2324 (XXII)" and called "upon the Government of South Africa to discontinue forthwith this illegal trial" of the five South African patriots and to release and repatriate them.

85. The first answer of the Government of South Africa consisted of a letter from the Permanent Representative of that country dated 30 January 1968, circulated in document S/8370. That letter in essence reiterates the minor régime's earlier statements according to which South Africa was "fundamentally opposed to each of the draft resolutions" that the General Assembly earlier adopted with regard to the termination of the Mandate of South Africa over South West Africa.

86. The second answer came to us directly from Pretoria when in complete disregard of the unanimous decision of the Council, sentences of utmost severity were passed on thirty-three of the thirty-four South West African patriots.

87. This is the situation in which we find ourselves. To frank, we have no reason to be surprised over the latest steps of the South African Government. For the last two decades that Government has consistently followed a policy of openly challenging the most elementary principles upon which our Organization is built, principles expressed in the Preamble of the Charter: "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights . . . of nations large and small and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress . . ." to quote only a few. Although a Member of the United Nations, the Republic of South Africa has violated all its obligations which it had undertaken upon becoming a Member of the United Nations and a signatory of the same Charter. The record of that Government is one of systematic violation of provisions of the Charter solemnly expressed by the Universal Declaration of Human Rights and embodied in the International Covenants on Human Rights. We all know that literally dozens of General Assembly and Security Council resolutions have been ignored by South Africa. The latest of these concerned the illegal rule over South West Africa following the termination of its Mandate by the General Assembly of the United Nations.

88. A question that naturally comes to our mind is that how is it possible that more than two decades after the victory over the inhuman and barbarous system of Nazi and Fascism we should witness a régime openly professing and basing its ruthless tyranny on the doctrine of racial superiority and that such a régime should be tolerated as an integral part of the international community? Was the fig-

⁷ United Nations, *Treaty Series*, vol. 75 (1950), Nos. 970-973.

against the most brutal manifestations of racial discrimination for some only a passing event rather than a resolute action to wipe out even the roots of such a disgrace? Listening to the spokesmen of South Africa proudly pointing to the solid evidence of existing discrimination based on race in other countries, one must admit that this evil is not confined to South Africa alone. The encouragement which South Africa receives from these facts should not be underrated. Consequently these other countries share the responsibility for the sinister actions of South Africa.

89. Another aspect of the policy of South Africa is the refusal to allow the overwhelming majority of the population, the indigenous nation of South Africa and more particularly that of South West Africa to enjoy their right to self-determination. The inhuman treatment meted out to the overwhelming majority of South Africa's population keeps that country in a situation of backwardness in spite of all boasting of its rulers to the contrary. At a time when hundreds of millions of former colonial subjects have liberated themselves from the yoke of colonialism and reached independence, one would wonder about this anachronism as demonstrated by South Africa. But again, is South Africa alone in resisting the rightful demands for self-determination for oppressed peoples? The most elementary knowledge of contemporary international life forbids us from giving an affirmative reply to this question.

90. But all that can be said of situations resembling those prevailing in South Africa would not in themselves provide an answer to the question why South Africa can do all that it does and still succeed in arrogantly defying world public opinion. The answer to this question lies deeper. The South African Government knows that whatever the words spoken in this chamber by several important members of our Council, they will do nothing in practice that could make South Africa realize that the carefully formulated verbal condemnation by these countries will be supported by deeds. South Africa knows that foreign investments and thereby the interests of the investors from the United Kingdom, the United States, the Federal Republic of Germany and other States in the actual set-up in South Africa is constantly growing. The leaders of the minority régime know full well that \$5 billion of foreign investments and their ensuing rich profits speak louder than any condemnation.

91. What effect can the declarations of abhorrence and the like have on South Africa when many of the same countries continue to sell arms to the oppressors of the peoples of South Africa and South West Africa? In this connexion we are bound to ask: against whom does South Africa need all these arms? The only logical explanation is that the arms are intended to keep down any move by the ruthlessly oppressed millions in South Africa and South West Africa. Has it ever occurred to the countries concerned what a responsibility they are taking? Do they think of the possible use of these arms in a country where all legal ways of abolishing the inhuman system of *apartheid* are now barred? And last but not least, how can one condemn the inhuman policies of the Government of Pretoria and follow at the same time a policy of military arrangements, such as sharing naval bases with them?

92. It is here that the clue for the continued refusal of that Government to the appeals, to the condemnation of world public opinion, lies. South Africa is fully aware of this situation, of the tremendous gap that exists between words spoken here and practical actions taken elsewhere. My delegation is convinced that were the expressions of condemnation or tactfully worded disapprovals that we hear from several members of this Council to be followed up by corresponding deeds, the South African Government would have long ago been forced to change its policies.

93. My country is a member of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa and as such has been actively concerned over the situation in that unhappy country. We had the opportunity to point out that only a resolute action by all, and I emphasize by all, leading members of our Organization can make the Pretoria régime realize that its policies inside South Africa and as the subject of our present discussion indicates, outside it, cannot receive continued assistance and support from those who in spite of everything maintain close relations with it. The outrageous defiance demonstrated by South Africa in the case of the trial of the South West African patriots is but one of the latest signs that shows to us that in the absence of any clear declaration by the major trading partners and weapons suppliers of South Africa it would be vain to expect any change in the attitude of the Pretoria Government.

94. And here I wish to state that in our view the trial in itself is illegal since it is directed against persons who do not come under the jurisdiction of South Africa and their heroic actions for the very ideals of the United Nations Charter cannot constitute crime. They are citizens of South West Africa temporarily under United Nations Mandate. For this reason the trial is an international problem and clearly concerns us. As to the question of the retroactive character of the Terrorism Act, we feel that this question, although indicative of the legal concepts now in use in South Africa, does not arise here, since no law, retroactive or not, enacted in South Africa can be held applicable in South West Africa after the Mandate has been terminated by the General Assembly. Thus, in a sense of international justice, it is the Pretoria régime that should stand trial, being guilty on many counts for violating generally recognized and mandatory basic principles of international law, as I have just outlined.

95. As for our attitude, we have made it absolutely clear on many occasions, the last of which was the 1387th meeting of the Security Council on 25 January 1968. We wish to reiterate here our support for all measures recommended by the United Nations for the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples with regard to South West Africa because we are convinced that the implementation of this Declaration serves the best interests of the people in the Territory. We firmly support the appeal of the United Nations to give moral and material assistance to the nation of South West Africa in its struggle for freedom and independence.

96. In line with these principles, we are ready to endorse all strong and effective measures that the Security Council may take to ensure the earliest possible release of the South

West African patriots who have been illegally tried and sentenced in South Africa.

97. The PRESIDENT (*translated from Spanish*): The next speaker on my list is the representative of Guyana, one of the States which has asked to take part in this debate without the right to vote. In accordance with the decision taken by the Council, I invite the representative of Guyana to take a place at the Council table.

98. Mr. BRAITHWAITE (Guyana): Mr. President, I am grateful to you for offering me this opportunity to address this august body, and I would also take the opportunity of presenting to you my congratulations and felicitations on your appointment to your office.

99. I speak primarily in the name of Guyana. Guyana is a very small country of 83,000 square miles, populated by about 700,000 souls, representing in their entirety a united nation of people. I use the term "united" with some question, since we are still discovering how to live as a united people because of recent historical events, part of which concern our difficulties in discovering our common identity. At home, we have learnt from bitter experience a real appreciation of that liberty without which life is but a futile exercise and the pursuit of happiness is but a hopeless dream.

100. I was not quite sure whether I should avail myself of this opportunity to address this assembly. I told myself that I would wait and observe the nature and the scope of this debate. I have been a little bit troubled by the very tone of the debate, perhaps because I am an impatient man. I have noticed the very measured tones with which this debate has proceeded, and I have asked myself whether this is primarily evidence of those excellent juridical minds which are applying themselves to the consideration of the matter at hand, or whether it is evidence of another occasion of an academic exercise. I merely asked myself these questions. My country is concerned because we feel an immediate identity with all those people who are concerned with liberty. We have learned the meaning of liberty. We have only recently become independent, and, even then, more recently we have been trying to rid ourselves of the fetters of internal strife.

101. We have represented around this table some very mighty nations, nations which at a moment's notice can summon to their bidding fantastic armament, can exercise extraordinary influence politically and can command fantastic economic power. Yet, in response to Security Council resolution 245 (1968), in which all States are invited to exert their influence in order to induce the Government of South Africa to comply with the provisions of that resolution, we see nothing. We see an amazing impotence where this simple matter of a firm adherence to principle is concerned. We find great nations irresolute, indecisive.

102. I for one am grateful that the tone and nature of this debate has been so measured, so precise, so quiet—because if we all listen very carefully, none of us can fail to hear the laughter of South Africa ringing through this room. The Government of South Africa knows, and is assured in that knowledge, that we will be indecisive. The Government of South Africa has had plenty of experience in what will

happen when the Security Council and other organs of the United Nations are confronted with questions affecting South Africa. It knows.

103. I would not in any way attempt to impugn the integrity of any State, but I feel that I am at liberty to question the conduct of States which, sometimes by failing to act, are contributing to the presence of that incubus which has declared itself our enemy. Perhaps there are those who will recognize that I am a novice in this business. My only claim in speaking to the Council is that I too represent a sovereign State. Therefore, if our only contribution in this august body is that occasionally we address ourselves to essential principles, I think that is enough.

104. This whole matter is concerned with the trial and condemnation of certain human beings. The whole world has recognized that trial and condemnation as completely without legal foundation or justification. We have the most interesting and unusual phenomenon of the Association of the Bar of the City of New York going on record as registering its complete attitude toward that trial and to the subsequent imprisonment of the individuals. What is happening here today is not merely that minds are occupying themselves with this matter in order to wind up with a resolution. What is happening is not merely the conduct of South Africa on trial. What we face here today is the fact that States—all States, powerful States, small States—are subject to the attention of the entire world.

105. It is not enough for them to make noises that will go down in history as speeches on this resolution. It must be expected that any noise they make must be substantiated with action, action of a kind that will make South Africa recognize finally that it cannot with impunity challenge and disregard and the United Nations, that it has reached the point where it will be brought to book. The time has come. South Africa must be made to recognize that it cannot depend on the support of States even by accident, even by their silence. It must not be allowed to assume that it can casually and in this completely cavalier manner disregard the integrity of other sovereign States.

106. I do not know whether any kind of grapevine will allow our deliberations here to infiltrate the prisons in which those unhappy men are incarcerated. I do not know whether they will ever discover what we have been doing here. I do not know whether they are aware at this moment that we are discussing their unhappy state. I do not know whether, had they known this, they would feel any sense of hope. Perhaps they, like so many others, will feel as South Africa feels: that this is merely another exercise in sophistry. I say—and I say it as a representative of a very small nation which, I reiterate, has very little to offer but a preoccupation with these essential principles—that if this matter truly concerns the Security Council it will ensure that positive action results from our deliberations here.

107. There have been times when I myself have felt my frustration, my weakness, pressing heavily upon me, because I wondered what it would be if I stood in the position of a mighty nation, whether I would permit the conduct of South Africa, whether I would permit this kind of incubus to feed upon this kind of institution. We speak of ourselves as an institution of sovereign States. To what degree are we

able to stand up and be counted as sovereign States when we are willing to accommodate this kind of behaviour in our midst, the kind of behaviour that would not be permitted in far lesser institutions, institutions which are not peopled by sovereign States.

108. I have not come here to preach or to dictate to my elders, to my seniors in so many of the disciplines of life. I have merely come here, on behalf of my Government, to make a simple and direct appeal to your interests, to your acumen, to your strength, to the power and influence you exercise, to say that in the final analysis these resolutions will not be worth the paper on which they are printed unless South Africa knows that when the Council gets together it gets together for business. If that business is to bring South Africa to a reckoning, to an understanding, that is the Council's business. There is no nation among you that can afford to opt out.

109. Sometimes, from my humble position, I observe the tightrope walking that seems to be a primary preoccupation here, in which it is not enough to walk the rope but it is important that the walking is observed. I ask myself whether in your unhappy positions I would feel as you do, and I pray to God that that may never come to pass.

110. Mr. BERARD (France) (*translated from French*): Mr. President, I should like to join with you in congratulating our colleague from Pakistan, Ambassador Shahi, and thanking him for the outstanding manner in which he presided over the Council. We have no doubt that you yourself will demonstrate equal abilities. You have already shown us an example this morning.

111. Less than a month ago, the Security Council unanimously adopted a resolution calling for the release of the thirty-five accused South West African nationals on trial in Pretoria. Today the Council has to turn its attention to the verdict pronounced on thirty of the prisoners, nineteen of whom have been sentenced to prison for life and nine to prison for twenty years. Everything has already been said regarding the conditions under which that trial took place. Sentence was passed under laws abhorrent to human conscience. This is why my delegation gladly complied with the request submitted by eleven delegations for an emergency meeting of the Council. We did so because the fate of nationals of a Territory with international status was at stake and because the circumstances surrounding the prosecution, the trial and the sentences were of a highly dubious nature. The French Government wishes once again, here in this Council, to express its concern at the attitude of the South African Government in this affair, as we have already done directly in Pretoria through our Ambassador there.

112. Both during the debates at the twenty-second session of the General Assembly,⁸ and during the meetings of the Council, the French delegation vigorously protested against a procedure which seemed to us to represent a clear denial of justice. We expressed the fervent hope that the Government of South Africa would listen to the voice of reason and the voice of humanity and act in accordance with the

recognized rules of law and justice, bearing in mind the international character of South West Africa.

113. My delegation deeply regrets that the Pretoria Government has apparently paid no attention to the appeals addressed to it. We deplore that Government's deafness to the urgent appeals of the General Assembly and the Security Council. The policy consistently followed by the South African Government in the Territory of South West Africa, the retrogressive nature of which is illustrated by the present case, incurs our censure.

114. My delegation notes with relief that none of the accused, who were liable to the death sentence under the South African legislation to which I have referred, in fact received such a sentence, and that consequently no irreparable act was committed. We still fervently hope that a further appeal to reason and justice will be heeded. My delegation is ready, consistently with the position we have always taken and which we have repeatedly had occasion to state, to endorse such a pressing and solemn appeal.

115. Mr. MOROZOV (Union of Soviet Socialist Republics) (*translated from Russian*): Mr. President, may I welcome you to the Chair and take this opportunity to express our great appreciation of the activities of your predecessor, the representative of Pakistan, Ambassador Shahi, who so ably guided the work of the Council in the previous month.

116. The Security Council has begun discussion of an extremely serious situation, which has arisen out of the Pretoria authorities' disregard of the Security Council decision adopted on 25 January last.

117. We agree with the representative of Guyana who pointed to the excessively quiet and academic nature, as he put it, of the debate on the question which is again being studied at the request of some ten Afro-Asian delegations who initiated the formal submission of the matter to the Council.

118. It is only with a deep sense of indignation and abhorrence that one can comment on what has happened to the South West African patriots fighting for their country's freedom and independence after the Council had adopted a unanimous decision to put an end to the illegal and arbitrary acts committed against those patriots before the indignant gaze of the whole civilized world.

119. I should like to draw the Council's attention to some documents directly related to this matter and expressing the views of the widest circles of world public opinion.

120. The Soviet Committee for Solidarity for the Countries of Asia and Africa addressed a special message on 15 February of this year to the United Nations Secretary-General, in which it states:

"Soviet citizens are indignant at the illegal and arbitrary actions prevalent in the Republic of South Africa. Despite the demands of world public opinion, and in defiance of resolutions of the General Assembly and Security Council, the fascist executioners in Pretoria are continuing their illegal persecution of South West African citizens.

⁸ Official Records of the General Assembly, Twenty-second Session, Plenary Meetings, 1636th meeting.

"Only a day or two ago a shameful sentence was passed on thirty-three members of the South West African people's organization, whose only guilt was that they had spoken up in favour of freedom and independence for their homeland."

The statements rightly emphasize that:

"... world public opinion brands as shameful the arbitrary acts of the racist authorities. The juridical farce enacted in Pretoria, despite the demands of progressive world public opinion, spurns international law and order."

It goes on to state:

"... the Soviet Committee of Solidarity with the Countries of Asia and Africa expresses the will of millions of Soviet citizens when it angrily protests against the shameful trial of the South West African patriots and calls for their immediate release and repatriation."

121. Here is another document, also addressed to the Secretary-General of the United Nations. It is a telegram dated 9 February last, from the Minister for Foreign Affairs of the German Democratic Republic, setting forth the views of that country's Government in connexion with the arbitrary actions taken by the racist authorities in Pretoria against the population of South West Africa. In its statement, the Government of the German Democratic Republic goes on to say:

"This trial is a gross violation of the South West African people's right to self-determination, a violation of the Universal Declaration of Human Rights and the violation of numerous resolutions adopted recently by the United Nations on the question of South West Africa.

"The Government of the German Democratic Republic strongly denounces the continued efforts of the South African Republic to disseminate the policy of *apartheid* in South West Africa, a policy which has repeatedly been condemned in the United Nations as a crime against humanity."

122. Here are two further statements which we have received in connexion with this topic from two important bodies active at this moment in the United Nations. Deep indignation at the arbitrary acts committed by the racists against the South West African patriots was expressed by members of the Commission on Human Rights and of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The decisions of these bodies demand an end to the racists' illegal acts against the people of South West Africa.

123. As convincingly demonstrated in statements made at today's meeting by representatives of the African and Asian countries, the judicial reprisals in Pretoria were, from beginning to end, prepared by the racist authorities, whose aim was to use cruel repression by the courts in order to frighten the people of South West Africa and to crush the national liberation movement which has advanced lawful claims to freedom and independence.

124. A number of members of the Security Council have already pointed to the utter worthlessness of attempts to give some semblance of legality to this juridical farce by invoking the racist Terrorism Act, adopted after the United Nations had deprived the racist régime of South Africa of its Mandate over South West Africa, that is to say, had deprived it of any grounds for administering that country.

125. In carrying out reprisals against the South West African patriots, the Pretoria racist authorities have again shown their utter disregard of United Nations decisions by defying the latest decision taken by the Security Council on 25 January last.

126. The forces of racism in the Union of South Africa, relying on the support and protection of the principal imperialist Western Powers, are endeavouring to perpetuate colonial and racist forms of government in that part of the African continent and, in particular, to preserve the cruel régime of colonial oppression in South West Africa. We have said many times—and we associate ourselves with what has been said today in the Council on this matter—that the tragedy of the people of South West Africa is a direct consequence of the unrelenting attempts on the part of the colonialists and racists, supported by the forces of international imperialism and reaction, to thwart by any means, including the most criminal, the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in the case of South West Africa.

127. The question arose when this matter was discussed in the General Assembly and in the Security Council on 25 January, and the same legitimate question arises now: Why is it that, despite the numerous decisions of the Security Council and the demands of progressive world opinion, the racist authorities of South Africa are continuing their policy of repression and unlawful treatment of the South West African patriots, and, in particular, have dealt in such a cruel and criminal way with the thirty-three fighters for the liberation of South West Africa from colonialist and racist aggression? It will not be possible to evade answering these questions by silence or by pious preaching advocating a number of measures which would merely treat some individual slight symptoms of an ailment instead of ending the disease once and for all.

128. Repeated discussions of the question of South West Africa in United Nations bodies leave no room for doubt that the racists of the Republic of South Africa would never have been able to show such insolent defiance of the entire United Nations organization and of its principal body, the Security Council, and that they would not be able to flout the demands made by an overwhelming majority of the United Nations Member States, if they did not receive the aid and support of their military and political allies. Among these military and political allies, which continue to be prudishly called the "main trading partners" of the South African régime, are the United States of America, the United Kingdom, the Federal Republic of Germany and a number of other Western Powers.

129. There is no need for us to repeat the numerous facts which have been presented in the United Nations bodies and which prove quite irrefutably that the ruling circles of

several Western Powers are endeavouring, because of their military, political, economic and strategic interests, to maintain the present colonialist and racist rule in the southern African continent. They do so because of their economic, military and political interests. They do so because they are interested in maintaining southern Africa as a military and strategic stronghold for the forces of imperialism and colonialism, a bulwark against the national liberation movement of African peoples not only of South West Africa but of the whole African continent.

130. These are circumstances to which we cannot remain blind if we are to strive to maintain the dignity of the Security Council as the main body of the United Nations, bearing the high responsibility conferred on it by the United Nations Charter.

131. In the present circumstances, the key question in the attainment of freedom by the peoples of South West Africa continues to be that of ending the political, economic, financial and other support given to the racist régime of the South African Republic by its major allies, the Western Powers. That is what the Security Council and the United Nations should consider first and foremost. The attention of all the world's peace-loving and progressive forces must be drawn to that question, since only thus will it be possible to end the racist régime's defiance of the will of the States Members of the United Nations reflected in the decisions of this Organization.

132. The General Assembly was fully justified, although in our opinion it did not express itself strongly enough, when, in resolution 2325 (XXII), it addressed a special appeal to the States known as the "main trading partners" of South Africa and having economic and other interests there, to take effective economic and other measures and to bring their influence to bear in order to bring about compliance with the General Assembly's decisions to end the repression of the people of South West Africa and to grant them freedom and independence.

133. Unfortunately, that appeal by the General Assembly, the political meaning of which is quite obvious, has evoked no response from the Western Powers.

134. It must be noted that many Western Powers, foremost among which are the United States of America, the United Kingdom, and the Federal Republic of Germany, continue to maintain numerous close ties with the South African racists and to give them all manner of economic, political and other support. That is why, when we take appropriate decisions in these difficult circumstances, in which we note total non-compliance with the Council's resolution of 25 January last, this fundamental political factor must not be lost sight of for one moment.

135. The position of the Soviet Union on this matter has often been stated by us in the Security Council and other United Nations bodies. We should like to stress once again that the Soviet Union has consistently opposed the use of terror and repression against those struggling for the national liberation of South West Africa. We decisively condemn the judicial reprisals against these true patriots, the leaders of the national liberation movement in South West Africa.

136. The Soviet Union, as we have already said, will continue to support the just struggle of the South West African people for its liberation from the colonial yoke and for its freedom and independence.

137. The PRESIDENT (*translated from Spanish*): The next speaker on my list is the representative of Chile, one of the States which have asked to participate in this debate without the right to vote. In accordance with the resolution adopted by the Council, I invite the representative of Chile to take a place at the Council table.

138. Mr. PIÑERA (Chile) (*translated from Spanish*): Mr. President, I should like, through you, to thank the Security Council for kindly affording my delegation, along with the ten others which have asked to take part in this debate the opportunity to present its views.

139. In the view of my delegation, the problem we are considering today is two-sided: it is very simple to formulate and to all appearances difficult to solve.

140. What is the problem? As it is already quite late, I do not wish to repeat this afternoon what the representative of Pakistan, Mr. Shahi, expressed so well on behalf of the eleven Members who requested this emergency meeting. He presented a complete analysis of the background of the South West African question, a major issue which has become particularly important in the last year and a half. During this time the Assembly and the Security Council have had to deal with the problem of South Africa's illegal trial of South West African citizens. We have already heard several speakers this afternoon; my delegation will therefore try to be very brief, but at the same time to keep to the point.

141. What is the problem? In the view of my delegation, we are faced with a double challenge. All the speakers today have stated clearly that the Republic of South Africa has defied the resolution adopted by the Security Council a mere three weeks ago—on 25 January—and the nearly unanimous will of the General Assembly, as expressed a few months ago in resolution 2324 (XXII).

142. My delegation is firmly convinced that this defiance is a breach of the fundamental principles of the United Nations Charter. To make matters worse, although it may be purely coincidental, the fact that the International Conference on Human Rights will convene in a few weeks at Teheran makes the South African Government's attitude even more grossly outrageous.

143. But there is another challenge, in the broad sense of the word, that I wish to point out today, although I know that almost all the delegations have already done so: the challenge to the United Nations itself, a challenge that will face the General Assembly when it meets a few months from now; and, moreover, mainly because of the very special authority invested in this Council, a challenge to the Security Council itself in the light of resolution 245 (1968) adopted unanimously on 25 January.

144. What happened on 25 January? Here in the Council chamber we adopted a clear-cut resolution: the South African Government was called upon to act in accordance

with the Council's wishes, in other words, to abandon the trial and return the prisoners to their country of origin, which is South West Africa, not South Africa.

145. Thus, to put it very simply, it seems to me that it is the fifteen-member Security Council, in which the Charter has vested the highest authority, that is being challenged by the refusal to comply with this unanimous resolution.

146. How is the resolution to be implemented? My delegation does not feel that it is fitting at this point in our debate to make any specific suggestion. We know that it is for the Security Council, in the light of its own resolution, to decide on measures for the implementation of that resolution.

147. We believe that the Charter contains the necessary means of implementing the resolution. I have followed the debate carefully, and I repeat that all the speakers this afternoon have agreed that South Africa has violated the principles of the Charter; and although I recognize that this problem falls within the context of the general question of South West Africa, it is nevertheless of a special nature, inasmuch as this illegal trial, as perhaps few other issues in the United Nations, has elicited near unanimity in the General Assembly, and unanimity in the Security Council.

148. The fact that this challenge was met with a great feeling of urgency not only by the Council for South West Africa and by all the members of the Commission on Human Rights, but also by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and within a very few hours by all the organs now operating within the United Nations, seems to us the clearest indication that this is a problem of concern to the entire international community. My delegation, which pursuant to the mandate expressly entrusted to me by the President, Mr. Shahi of Pakistan, is also speaking on behalf of the United Nations Council for South West Africa, has therefore been in contact with all the members of the Security Council from the very first day.

149. Thus it would seem that, leaving aside the substance of the problem, namely, the violation of principles to which we all subscribe, it is the implementation of those principles that, as I said at the outset, will be a hard task. It will of course be difficult because it is always hard to proceed from the formulation of principles to their application. However, its very complexity makes the task even more mandatory.

150. In the light of this problem, which is of concern to the entire community, my delegation would like first to reaffirm its condemnation of the attitude of the South African Government which, as the representative of France very clearly put it, is an outrage to reason and justice. I endorse his statement, to which I listened most attentively. If anything can outrage justice and reason, it is the attitude of the South African Government. I would say that the problem transcends the issue of South West Africa and its citizens, as well as the illegal, illegitimate and outrageous attitude of the South African Government. This problem challenges the very concept of human rights; and for my delegation, the defence of the principles of human rights is

what inspires all the activities of the United Nations, whether it be of peace-keeping, economic and social development, or decolonization.

151. My delegation is ready to co-operate with the eleven members that requested this meeting in making a valiant effort to find a solution likely to achieve unanimity or a very large majority in this Council. I say this in all humility, for it is not our own direct responsibility, but that of the Security Council. However, my country, as a member of the United Nations Council for South West Africa, also believes that if the Security Council feels it is necessary or useful to call for our co-operation, it is our duty to work with it.

152. We have several specific points to offer, which I shall try to summarize.

153. First, we must frankly, categorically and forcefully condemn the violation of the decisions reached by the Security Council.

154. Second, there are effective and appropriate steps to be taken to ensure compliance with that resolution. I want to make myself clear on this point. Needless to say, in view of what I have called "effective and appropriate steps", it is obvious that the Security Council must take the decisions. We also feel that all the resources envisaged in the Charter must be considered and that none should be eliminated *a priori*. For in my delegation's view, it is precisely the instruments provided by the Charter that should be used for implementing an agreement which, I repeat, has the peculiarity of having been adopted unanimously in the Council, almost unanimously approved by the General Assembly and repeatedly reaffirmed by other organs such as the Commission on Human Rights.

155. I know that the application of the principles, in the broad sense of the word, may possibly entail a sacrifice for many delegations. However, the international community has seldom had a more clear-cut opportunity to apply the principles and bring them down to earth than it has today.

156. In conclusion, to illustrate a paradox, I should like to recall the words of that freedom-loving Frenchman Lamennais, who reached a conclusion which may appear shocking. Speaking of the weak—and who could be weaker today than the South West African prisoners being tried illegally in Pretoria?—he said: "Freedom oppresses and only the law liberates." The paradox is the so-called law of the South African Government, which instead of protecting the weak—for the citizens of South West Africa are weak—oppresses them; for them there is no freedom, and the law is turned into the instrument of their own destruction.

157. The representative of France observed that at least the irreparable step had not been taken—they had not been put to death; they had not been condemned to death. But what I say is that it is not the severity of the sentence, whether it is death, or twenty, ten or five years in prison, that concerns us; it is this utter, categorical, final, and abhorrent disregard and violation of the principles which all of us—not only the Security Council, but the entire international community—have promised to abide by and so apply.

158. My delegation offers its modest co-operation, a willingness to work with the members of the Security Council, should they so desire, to seek a solution on the foundation which I have just set forth on behalf of Chile.

159. The PRESIDENT (*translated from Spanish*): There are no more speakers on my list for this afternoon's meeting. If no other member wishes to speak, I propose to close the meeting.

160. Meanwhile, I have held informal consultations with the members of the Security Council and it appears that there is general agreement to continue our discussion on Monday afternoon. If there is no objection, the next meeting will be held at 4 p.m. on Monday, 19 February 1968.

It was so agreed.

The meeting rose at 7 p.m.