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**President: Mr. Abdelaziz BOUTEFLIKA**  
(Algeria).

AGENDA ITEM 3

**Credentials of representatives to the twenty-ninth session of the General Assembly (*continued*):\***  
(b) Report of the Credentials Committee

1. The PRESIDENT (*interpretation from French*): The Assembly will recall that at its 2248th meeting, on 30 September 1974, it adopted resolution 3207 (XXIX). In the operative part of that resolution it called upon the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by the latter of the principles of the Charter and the Universal Declaration of Human Rights. In this connexion, the Assembly has before it a letter dated 30 October 1974 from the President of the Security Council, which has been circulated as document A/9847.

2. Mr. SALIM (United Republic of Tanzania): It is my privilege to speak on behalf of the African group of the United Nations, as Chairman of that group for this month, on the question of the report submitted to us by the President of the Security Council on the deliberations that took place in the Council with regard to the question of the relationship between the United Nations and South Africa.

3. The report of the Security Council on the relationship between the *apartheid* régime and our Organization [A/9847] is a matter that calls for the undivided attention of this Assembly. It is a matter involving the commitment of each Member State to the principles of our Organization, which we are all bound ourselves to observe. It is a matter which tests the faith in the declarations contained in the Charter of the Organization. That is why the African group watched the proceedings and the debate in the Security Council with interest and great expectations. It is also in that spirit that we wish to note the report of the President of the Security Council to the General Assembly on this matter, for, if the debate in the Council demonstrated anything, it was the universal condemnation of the *apartheid* régime and its practices. Not a

single member who spoke in the Council said anything to defend the system of the South African *apartheid* régime. Not a single voice was raised in favour of that régime. Indeed, even those who misused their responsibility under the Charter and cast their vetoes against the expulsion of that régime from our Organization condemned that régime and its system of *apartheid* and racial segregation, which is based on the dangerous concept of racial supremacy.

4. The debate in the Security Council demonstrated beyond any doubt that the *apartheid* régime in South Africa is not fit to be a Member of this Organization. The debate also demonstrated other no less important facets of the South African tragedy, foremost among which is the support given by the three Western permanent members of the Security Council to the *apartheid* régime. It showed clearly that only because of that support can that régime continue to remain a Member of the United Nations today.

5. These supporters of South Africa are powerful nations indeed, and obviously they do not wish their motives to be questioned, but we can certainly state that, by their collective action, France, the United Kingdom and the United States have reinforced *apartheid* in South Africa, have given the régime of Mr. Vorster a longer lease of life, at least at the United Nations, and have, notwithstanding their protestations, sacrificed the principles of human dignity and human morality for the expedience of vested interests—short-term interests at that.

6. We speak not in anger but in anguish, not with rancour but in utter dismay, not with malice towards those who have chosen to frustrate the Security Council's action but certainly with injured feelings. It is not for me here to condemn their action. That is an exercise I am quite prepared to leave to the forces of world public opinion and, above all, to history—for history cannot and will not absolve such callous indifference to the collective will of the international community. Above all, it is for the people of South Africa themselves to pass judgement on the repercussions of this action—and they have spoken in very forceful terms. The authentic representatives of the African people of South Africa—the representatives of the African National Congress [ANC] and the Pan-Africanist Congress [PAC]—have condemned this action, and only today *The New York Times* reported the criticism levelled at the Western Powers by leaders of the South African coloured people within South Africa itself. I refer to the protestations reported to have been made to the United States Assistant Secretary of State for African Affairs.

7. We must, nevertheless, stress that we regard the triple veto as a very ominous sign. This unprecedented collective misuse of the responsibility vested in the permanent members of the Security Council constituted, in our opinion, not only a breach of trust but

\* Resumed from the 2248th meeting.

a grievous fault indeed, and we remain convinced that, unless concrete measures are taken to correct this error, we may all end up paying grievously for the actions of these few—these unhappy, however powerful, few.

8. To say that we are disappointed by the triple veto would be an understatement. Of course, it can be argued that we should not have been surprised. After all, were we not forewarned of the mighty vetoes in the very early stages of the debate? Were we not aware of the massive economic and other involvements of these friends of the South African régime? Certainly we were aware of these factors and more. There may be those who may even accuse us of being naïve by expressing our disappointment, and in a way we may indeed be guilty of idealism, for we do believe in the Charter of the United Nations and, notwithstanding our imperfections and errors, we try to live by the principles of the Organization.

9. At the same time, all of us in the African continent know something of the history of these countries, something of the positive traditions of the three powerful nations which constituted the triple veto. We have heard of the American Declaration of Independence and of the great American leaders in their own way like Abraham Lincoln. We have known of the Magna Carta, which comes from the land that once held an empire on which the sun never set. And, certainly, we are all versed in the great resounding principles of liberty, equality and fraternity. Perhaps we had a fixation on these glorious traditions and found it difficult to believe that it would be possible for us to be confronted with a situation where the Prime Minister of the world's greatest delinquent country, the most notorious violator of all that we hold dear, the most recalcitrant, indeed the most persistent, aggressor against our very humanity, would be paying a public tribute of appreciation for the excellent services rendered to the land of *apartheid* by the representatives of the land of Magna Carta, the land of Lincoln, and the land of liberty, equality and fraternity. I leave it to the representatives of the United States of America, of the United Kingdom and of France to judge for themselves the value and implications of Mr. Vorster's public tribute.

10. Yet, despite the obstacles imposed by the three Western permanent members of the Council, the efforts to remove the *apartheid* régime from our Organization will continue. The world has pronounced itself categorically on the undesirability of that régime remaining in our midst. The tide of change cannot be reversed, especially where justice for all mankind is involved.

11. In this connexion, let me thank the brotherly people of Latin America whose solidarity and support we highly cherish. We salute the brotherly people of Peru and its Government, which supported the draft resolution. Equally, we pay warm tribute to the people and the Government of Australia, which, under difficult circumstances within the context of its group—the difficulties which all of us are aware of—decided to cast its vote on the side of justice. We are deeply thankful for this solidarity, for the situation in South Africa demands that nations take sides in favour of justice. There is no half-way where justice is involved. We are either all for justice or against it. Indeed, an

analysis of the voting pattern in the Security Council clearly demonstrates that, except for the three permanent members of the Council, South Africa's isolation was total. Those who voted for expulsion also come from different regional groups. They are people of different races and of diversified ideological beliefs. In short, they represent the collective determination of humanity to fight against inhumanity.

12. Yet, the Security Council's failure to take action disregards, utterly disregards, the views and the mood of the General Assembly. This Assembly had on several occasions rejected the credentials of the representatives of South Africa. That move was previously interpreted as a serious warning to the South African régime. It was in that light that the matter was taken to the Security Council for action. The failure of the Security Council to adopt the appropriate measure is something we deeply regret. We note, however, that the Security Council is still seized of this matter. In this connexion, let me emphasize the responsibility of those who prevented the Security Council from taking the logical decision regarding South Africa. The Assembly, and indeed the whole world, expected the Council to remove the outcast that has been plaguing our Organization for so long. Those who voted for the draft resolution were demanding just this. We could not ask for better evidence of the need to expel the *apartheid* régime from among us. This was a clear expression of the condemnation of the consistent violations of the Charter by the *apartheid* régime. And we do not believe that even those who framed the Charter envisaged that the veto, unjust as it may be, could be used so unjustly as to frustrate the very principles of the Charter which it sought to defend. We have noted that even those who championed this frustration recognize their special responsibility with regard to South Africa. Let me say this from this rostrum, that such continued frustration of decisions of the Security Council leaves little room for the international community to take measures to preserve the Charter through that body. Those who frustrated that decision bear special responsibility for any action that may be taken in the future outside the Security Council.

13. But all that I have said is within the context of South Africa's continued membership in our Organization. We recognize that the Security Council is still seized of the matter and we express our firm hope that soon that organ will again be convened to consider this problem.

14. On the other hand, we are still faced in this Assembly with the problem of the status of the South African delegation to the twenty-ninth session of the General Assembly. It is to this matter that I now wish to address myself.

15. We adopted a decision in this Assembly regarding the rejection of the credentials of South Africa [*resolution 3206 (XXIX)*]. For the first time, the Credentials Committee itself rejected the credentials of the *apartheid* régime [*see A/9779*]. We believe that this decision has certain logical consequences. Previously, the Assembly gave the South African régime a chance to mend its ways. This year, the Assembly was not prepared to go on issuing warnings regarding the South African régime. The matter was referred to the Security Council, which failed to act. So we are still

seized of the matter of the effect of our decision regarding the credentials of that régime.

16. As I have indicated before, that decision has certain logical consequences. I should like, for the sake of clarity, to emphasize that in pursuing the logical consequences of this decision we shall not be infringing the provisions of Article 12 of the Charter, for the matter of which the Security Council is seized is the question of allowing the *apartheid* régime to remain in the Organization, and not the question of the credentials of the South African delegation in the current General Assembly.

17. So, to conclude, I should like to ask your guidance, Sir, on the effect of the decision of the General Assembly to reject the credentials of the *apartheid* régime. I make this request in the name of the African group, over which I have the honour to preside. And I do so because we find it to be a serious anomaly to have the delegation of South Africa taking part in the proceedings of our Organization when the credentials of that delegation have been so decisively rejected, first by the Credentials Committee and later by this Assembly. I do so especially in view of the fact that, by referring this matter to the Security Council, the Assembly rejected the notion of indefinitely continuing with serious warnings to the *apartheid* régime of South Africa. The African group, in whose name I am addressing this august Assembly, awaits your guidance on the status of the South African delegation to the twenty-ninth session.

18. Mr. DRISS (Tunisia) (*interpretation from French*): As Chairman of the African group during the month of October, I had the privilege and the responsibility of following very closely the question of relations between South Africa and the United Nations and of representing Africa at the time of the Security Council's consideration of this item. In particular, following upon the receipt of your letter, of 30 September 1974, Mr. President, transmitting General Assembly resolution 3207 (XXIX),<sup>1</sup> I called, on behalf of the African group, for a meeting of the Security Council.<sup>2</sup> On 18 October last, I explained to the Security Council, at its 1796th meeting,<sup>3</sup> Africa's views, and its concern, about the continuing violations by South Africa of the principles of the Charter and of the Universal Declaration of Human Rights. I called upon the Council to see whether Article 6 of the Charter should in this case be applied to South Africa.

19. All Member States have followed with interest the discussions in the Council on this question, and the press of the United States and of the world widely reported and commented on the debates. Apart from the members of the Council, a great many Member States, 36 to be exact, made statements in the Council within the framework of rule 37 of the provisional rules of procedure of the Security Council and, in pursuance of rule 39, many representatives of liberation movements of southern Africa were able to make their voices heard.

20. If one were to draw some conclusions from the debates of the Security Council one might summarize them as follows. First, all of the speakers who intervened in the debate impugned *apartheid* as a hateful system contrary to the principles of the Charter and the Universal Declaration of Human Rights. Secondly, all speakers were in agreement in saying that the

presence of South Africa in Namibia was unlawful and that South Africa was duty-bound to withdraw from that international territory. Thirdly, all speakers considered that the presence of South African army and police forces in Southern Rhodesia was contrary to the resolutions and decisions of the United Nations.

21. It is interesting to note that South Africa did not even try to refute the arguments adduced against its policy. On the contrary, we gained the impression that its representative to some degree wanted to recognize the mistakes made by his Government and asked that South Africa should be judged on its intentions and on the policy that his Government intended to follow in the near future. It is true that the political context in southern Africa has completely changed. Since the courage and determination of the liberation movements in Guinea-Bissau, Mozambique and Angola have won out over the Caetano régime and have led to its overthrow, and since the new Government of Lisbon has set out resolutely along the path of genuine and speedy decolonization, South Africa has lost its principal ally. One is far from the time when the Lisbon-Pretoria-Salisbury axis constituted a collective defiance of the international community.

22. Today the pressure exerted on Pretoria is increasing. The traditional allies of South Africa themselves have encountered increasing difficulties in supporting their racist and backward theses. The debates that took place here in the General Assembly before the vote on resolution 3207 (XXIX), indeed like the discussions in the Security Council and the comments of the international press, have shown how isolated South Africa is, while demonstrating the effects of the pressure exerted by our Organization. However, we all know, although the letter of the President of the Security Council [A/9847] does not mention the fact—I assume deliberately—that the draft resolution submitted to the Council by Iraq, Kenya, Mauritania and the United Republic of Cameroon recommending the expulsion of South Africa<sup>4</sup> could not be adopted because of the veto of three permanent members of the Security Council. While it is true that the representatives of those three States who cast the decisive votes were careful to reject not only the policy of *apartheid* of South Africa, but its presence in Namibia and its support of Southern Rhodesia, it none the less remains true that it was the first time in the history of the Council that three vetoes were cast at the same time.

23. Comment on these vetoes, and on the hesitation that seemed to have preceded them, will not cease for many years to come. I should simply like to refer now to their immediate consequence, which was that they were votes that prevented the expulsion of South Africa from our Organization. As long as States permanent members of the Security Council decide to use their right of veto, our efforts to see Article 6 of the Charter applied to South Africa will be in vain. However, our determination to oppose racism and injustice has had widespread repercussions, and the three vetoes cast in the Security Council weigh heavily on the conscience of the Pretoria leaders. Even before the discussion by the General Assembly of the question of the credentials of the South African delegation, perhaps in anticipation of this discussion, the South African Government had announced its inten-

tion of finding a solution to the problem of Namibia. Subsequently, at the time when the Security Council was considering the question of relations between South Africa and the United Nations, the Prime Minister of South Africa declared in the South African Senate that his Government had decided to work for peace, progress and development in southern Africa.

24. No matter how remarkable and promising those statements may be, they would be worth while only if they were followed up by decisive action, because, if peace and progress are to come to southern Africa, South Africa will have to reconsider its racial policy, known as *apartheid*, dismantle the system of bantustans, and recognize PAC and ANC as the true representatives of their people. South Africa will have to leave Namibia and hand over the administration of that Territory to the United Nations. South Africa will also have to withdraw its forces from Southern Rhodesia and give up its policy of aggression against neighbouring countries so that finally it can be reconciled with the other States of the continent. It is in this context that President Kaunda of the Republic of Zambia stated on 26 October last:

[*The speaker continued in English.*]

“If the South African Government is ready to follow a way of peace to achieve for this continent and its people the best that is possible, then all I can say is that Africa, in accordance with the principles laid down in the Manifesto on Southern Africa,<sup>5</sup> stands ready to create conditions for peaceful change.”

[*The speaker resumed in French.*]

25. In a statement made on 5 November, the Prime Minister of South Africa gave himself six months to carry out a radical change in the policy of South Africa.

26. For our part, we hope that these statements will become a reality. But we consider that the responsibility of the great Powers in this area is tremendous, and in particular I refer to the great Powers which, by their veto, opposed the expulsion of South Africa from the United Nations. It is up to them now to show that another solution is possible. The Security Council, as indicated by its President, remains seized of the question, and our determination to oppose illegality, racism and injustice will remain unshaken so long as South Africa has not adopted the course of reason.

27. Our Assembly finds itself confronted with an interim report of the Security Council in which the President of the Council states that the Council remains seized of the question. Hence, we shall have to wait until the Security Council completes the review of “the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights”. When the Council submits a more substantive report to us, we shall be able to decide on the action to be taken with respect to the participation of South Africa in our work. Without a more substantive report from the Security Council and in the absence of specific recommendations from the Council, we cannot reconsider the decision taken by the General Assembly, by a very large majority, on the credentials of the South African delegation.

28. I am convinced, Mr. President, that in your wisdom you will confirm this point of view, which has just been put forward by my friend and colleague, Mr. Salim of the United Republic of Tanzania, the Chairman of the African group for the month of November.

29. At the same time, I think that South Africa could well avail itself of the opportunity of a review by the Security Council of its relationship with the United Nations to examine its situation in Africa and in the world and perhaps to take the appropriate initiatives to reconcile it with the international community.

30. Mr. KELANI (Syrian Arab Republic) (*interpretation from Arabic*): Today we return once more to our consideration of the question of the credentials of the representatives of South Africa because of that Government's continued violation and breach of the United Nations Charter as well as of the Universal Declaration of Human Rights.

31. At the end of September, the General Assembly adopted a resolution [3206 (XXIX)] approving the first report of the Credentials Committee [A/9779], in which the Committee accepted the credentials of a number of States, with the exception of those of the representatives of South Africa. This decision is a safeguard for the provisions of the Charter and of the Universal Declaration of Human Rights. It protects the dignity and confirms the decisions and resolutions of the General Assembly on this particular matter. From 1970 to the present—that is, in the course of five consecutive sessions—the General Assembly has repeated year after year and session after session its rejection of the credentials of the South African delegation. Last year the General Assembly took two very important steps: it declared, in resolution 3151 G (XXVIII), that the South African régime had no right to represent the people of South Africa, and, in resolution 3068 (XXVIII), it adopted the International Convention on the Suppression and Punishment of the Crime of *Apartheid*.

32. Prior to that, the Security Council had decided in its resolution 181 (1963) of 7 August 1963 that the policies of South Africa in its perpetuation of racial discrimination were inconsistent with the principles contained in the Charter of the United Nations and contrary to its obligations as a Member of the United Nations. The Security Council reaffirmed its decision in its resolution 182 (1963) of 4 December 1963 and again in resolution 191 (1964) of 18 June 1964.

33. These continuous admonitions by the General Assembly and the Security Council over a period of 12 years were not heeded by the South African régime and were not able to stop its constant violation of the Universal Declaration of Human Rights, its illegitimate occupation of Namibia and its perpetration of crimes against the people of the Territory, since it deprived the peoples of South Africa of their right to self-determination and limited it solely to the white colonialist settlers.

34. Allowing the South African delegation to carry on its activities and to continue to enjoy membership in the United Nations has led to the undermining of trust in our Organization and in its principles because membership in this international Organization implies acceptance of a commitment to respect human rights

and fundamental freedoms as well as to apply the right to self-determination of peoples and to provide for the dignity of man and equality between peoples regardless of colour, race, language or creed. The very presence of the South African delegation in this General Assembly is in utter contravention of these very basic principles.

35. Those who support the presence of that delegation within the United Nations justify their stand as being based on the principle of universality of this Organization, and we who take a stand regarding the membership of South Africa in the United Nations wish to affirm this principle. We respect it and aim at implementing it fully and on a sound and practical basis because, according to our understanding, universality lies within the right of peoples to self-determination. It is the universality of peoples and populations and not the universality of racism. If we were to accept the principle of universality as an absolute principle, unrelated to the principles of our Charter, we would be accepting the right of a minority of white settlers to repress and suppress the true peoples of that region and, at the same time, be violating one of the principles of the Charter.

36. For these reasons my delegation fully and clearly supports the proposal that has been presented on behalf of the African group by the permanent representatives of the United Republic of Tanzania and Tunisia.

37. The PRESIDENT (*interpretation from French*): Before calling on the next speaker, I should like to appeal both to representatives and to the public to be kind enough to keep silent in the Assembly Hall so that we can maintain the dignity which should mark our proceedings and, also, out of simple courtesy to the various speakers.

38. Mr. JACKSON (Guyana): On 30 September, by adopting resolution 3206 (XXIX), which approved the first report of the Credentials Committee [A/9779], the General Assembly by an overwhelming majority rejected the credentials of the delegation purporting to represent South Africa.

39. Pursuant to this decision, the General Assembly further adopted resolution 3207 (XXIX), which called upon the Security Council to review the relationship between the United Nations and South Africa in the light of South Africa's contemptuous behaviour.

40. Today, the Assembly has before it a report [A/9847] from the President of the Security Council on the stage reached by that organ in its initial consideration of the future of South Africa in the United Nations. Regrettably, the Council was unable to adopt a resolution on the matter. It is noted, however, that the Council remains seized of the issue.

41. It is, I believe, correct to say that all Member States followed keenly and attentively the Security Council debates, taking place as they did against the background of sustained concern by the various organs of the United Nations and the pellucid expression by the current session of the General Assembly of the need to take effective measures against South Africa, measures that are in accordance with the provisions of the Charter and have as their objective ending South Africa's persistent violation of basic legal instruments that regulate the activities and guide the behaviour of States Members of this Organization.

42. That the Security Council has not as yet reached definitive conclusions for action is a source of great disappointment to many delegations, including the delegation of Guyana. The people of Guyana share the anguish of the people of South Africa and of Namibia—that is to say, the vast majority of them—that a principal organ, the Security Council, has been unable so far to take the necessary steps, steps that are as legitimate as they are appropriate, to hasten the termination of the repressive policies that the Pretoria régime pursues.

43. The United Nations has agonized over the problem of South Africa for over a quarter of a century. Thus, the inability of the Security Council during October to take firm decisions when there was universal condemnation of *apartheid* and of the actions of the South African régime in regard to Namibia and Southern Rhodesia is a matter for the most serious concern. The negative votes of three permanent members of the Security Council—France, the United Kingdom and the United States—which have so far frustrated Security Council action, have given the Pretoria régime an undeserved respite. Indeed, those votes have already been interpreted by Pretoria as having been cast "in South Africa's favour".

44. That notwithstanding, while we are extremely disappointed at the outcome of the initial consideration of this question by the Security Council, special note has been taken of the fact that that organ continues to be seized of the matter. It is our expectation that the Security Council will soon return to its task and that it will arrive at the correct decisions which the situation demands.

45. But, even as decisive action by the Security Council is awaited, the General Assembly should not be made merely to mark time. It should not, in the conduct of its work and within the limits of its competence, be prevented from giving concrete effect to its earlier decision to reject the credentials of the South African delegation. Further warnings would be treated with the same contumacy with which previous ones have been treated. The South African régime has never respected moral imperatives and it will not respect them now. It has responded only to pressure. There is little doubt that the collective pressures consistently applied over a long period of time by the United Nations, by most of the States Members of this Organization, by the liberation movements, by progressive and humanist forces, including some within South Africa itself, and by the chorus of people all over the world have forced a recognition upon the rulers of South Africa that a change at least in posture is inevitable. The pressure must therefore be maintained and intensified.

46. The situation cannot remain *in vacuo*. My delegation has expressed itself on the matter of South Africa, and our position is clear. The real question is indeed: Where does the General Assembly go from here?

47. In that context, my delegation supports the request of the African group for your guidance, Mr. President, on the status of the South African delegation at this twenty-ninth session of the General Assembly.

48. Mr. PETRIĆ (Yugoslavia): For the first time in its history the General Assembly, by its resolution 3207 (XXIX), requested the Security Council to review

the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights. In spite of the very significant majority of 10 affirmative votes, the Security Council was unable, because of the veto cast by some of its permanent members, to adopt the draft resolution calling for the immediate expulsion of South Africa from the United Nations in accordance with Article 6 of the Charter.

49. At the same time, the Credentials Committee rejected the credentials of the representatives of South Africa in the United Nations. That is of special importance for the General Assembly. The General Assembly adopted, by an overwhelming majority, the relevant draft resolution recommended by the Credentials Committee [*resolution 3206 (XXIX)*].

50. This is an unprecedented situation, reflecting great changes that require action commensurate with those changes.

51. Bearing in mind the situation as a whole, the Yugoslav delegation feels that the General Assembly should rise to the occasion and take an appropriate stand, the stand expected of it by the whole international community truly dedicated to the eradication of *apartheid*.

52. Consequently, we support the position expressed here by the current Chairman of the African group, the representative of the United Republic of Tanzania.

53. Mr. RICHARD (United Kingdom): We have heard this afternoon a number of speeches in which the speakers have criticized the votes cast by my delegation and by certain other delegations in the Security Council on the motion submitted to that Council for the expulsion of South Africa from this Organization. A number of speakers have also suggested that it is now open to this Assembly to take by itself a decision that the delegation of South Africa should be excluded from participating in our future proceedings.

54. It is therefore necessary for me to say briefly why I consider both those arguments to be erroneous and, indeed, dangerous for the future of the whole United Nations.

55. Let me start by making the fundamental, if obvious, point that this Organization is governed by the Charter. It cannot, consistently with itself and with the role it is designed to play in international affairs, disregard that Charter. We are either a law-abiding, law-respecting body or we are nothing, a mere talking shop. If we put aside the Charter whenever its provisions may seem to a majority of us—even, indeed, to a preponderant majority of us—to be inconvenient, then we lose all claim to authority and to credence. In short, the Charter is and must be the constitutional foundation for all that we do. Respect for that Charter must permeate all our decisions. That much, I trust, is common to all of us here today.

56. The Charter requires—and this too is no mere accident, indeed, it goes to the very heart of the way in which this Organization works—that certain decisions have to be taken by the Security Council. Sometimes the Security Council operates alone; sometimes it operates in conjunction with the Assembly in the sense that a decision by the Security Council

to make a certain recommendation to the Assembly is the necessary pre-condition for the Assembly to take action.

57. The Charter also provides—and again this is no incidental provision but goes to the heart of the way in which this Organization was conceived and in which therefore it must function—that certain decisions of the Security Council require not merely the support of the prescribed majority of members of the Council, but also the concurrence of all the permanent members. By concurrence we mean of course the absence of a negative vote. This in turn casts a heavy responsibility on those permanent members, particularly where the issues concerned raise fundamental questions such as the universality of the Organization itself, or questions of admission, suspension and expulsion. It is clear that in cases such as these—and of course there are other examples besides those I have referred to—our decisions carry with them grave consequences and the burden on us is therefore correspondingly heavier. But under the Charter that obligation is placed upon us and we cannot abdicate it or delegate it or be instructed by others on how to exercise it. Having weighed all the factors carefully, and according to the best judgement that we can bring to bear, the ultimate decision under the Charter must be ours.

58. We must therefore reject—and I do formally reject—any argument that in discharging this important function under the Charter we ought to abandon our own judgement in deference to the views urged upon us by other delegations, even a majority of them, or indeed by other organs of the United Nations. The Charter imposes a responsibility on the Security Council, and the Security Council must discharge it. The Charter imposes a responsibility on each of the members of the Security Council, and each of them in turn must discharge it as it sees fit, conscientiously, honourably and in good faith. That was the position of my delegation in the Security Council in our recent proceedings and it remains our position today. It seems to me, with respect, to be the only position that is consistent with the Charter of this Organization.

59. I turn now to the other argument that I referred to, that is to say, the argument that, despite the fact that the Security Council has not made a recommendation to the Assembly under Article 5 or Article 6 of the Charter, it is nevertheless open to the Assembly today by its own decision to exclude the delegation of a Member State.

60. Mr. President, you have been asked by a number of delegations for your guidance and for your ruling today. Allow me therefore to put in front of you certain considerations which I hope you will think are relevant and apposite when you are determining what guidance you should give the Assembly. The argument that, despite the Security Council's failure to make a recommendation, it is nevertheless open to the Assembly today by its own decision to exclude a delegation of a Member State seems to me also to be one which flies in the face of the Charter. There is a well-known rule of common law—I think it is common, indeed, to all systems of law and not merely to my own—which is grounded in logic and in common sense and which says that where a law, a legally binding instrument, prescribes the way in which a thing is to be done,

it may be done only in that way and not in any other way. The Charter is a law; it is a fundamental legal instrument binding on all of us. It is indeed the foundation and the framework of all our activities here. That Charter provides explicitly and exhaustively in Article 5 how a Member State may be suspended from the exercise of its rights and privileges of membership. I will, if I may, read that Article. It says:

“A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.”

61. No provision could be clearer or more explicit than that. It is unquestionable that the right to participate in the proceedings of this Assembly is one of the most important of the rights and privileges of membership. Indeed, it is a right which is expressly guaranteed to every Member of this Organization by the Charter itself, namely, by Articles 9 and 18.

62. It seems to me to be unarguable, therefore, as a matter of law—as a matter of the fundamental constitutional law of this Organization—that if we purport to exclude the delegation of a Member State, any Member State, from participating in our proceedings, and if we do so by a simple decision of the Assembly itself and not in the circumstances and in the manner provided for in Article 5, we are acting improperly, unconstitutionally and illegally. I am fortified in that view by the fact that it was also the view expressed in 1970 by the then Legal Counsel to the United Nations in an opinion which was communicated to all of us,<sup>6</sup> and which not only has never been seriously questioned but also has since been acted upon by many of your distinguished predecessors. I am also encouraged by the fact that a precisely similar line of reasoning was adopted by the International Court of Justice in 1950 when it gave its advisory opinion on the “Competence of the General Assembly for the admission of a State to the United Nations”.<sup>7</sup> That opinion related to the requirement for admission under Article 4 of the Charter but, since the relationship between the Security Council and the General Assembly is precisely the same under Article 4, paragraph 2, as it is under Articles 5 and 6, the judgement applies with equal force to suspension and expulsion. Mr. President, I would respectfully commend that opinion of the Court to you and to this Assembly, since it seems to me to put the matter with great force and clarity. In that part of the opinion which set out the reasoning by which the Court reached its conclusion, the Court said the following:

“To hold that the General Assembly has the power to admit a State to membership in the absence of a recommendation of the Security Council would be to deprive the Security Council of an important power which has been entrusted to it by the Charter. It would almost nullify the role of the Security Council in the exercise of one of the essential functions of the Organization. It would mean that the Security Council would have merely to study the case, present a report, give advice and express an opinion. This is not what Article 4, paragraph 2, says.”

And in its formal conclusion to the judgement the Court enunciated the position as follows:

“The Court . . . is of the opinion that the admission of a State to membership in the United Nations, pursuant to paragraph 2 of Article 4 of the Charter, cannot be affected by a decision of the General Assembly when the Security Council has made no recommendation for admission, by reason of the candidate failing to obtain the requisite majority or of the negative vote of a permanent member upon a resolution so to recommend.”

63. In our view, that judgement and that argument applies with equal force to the suspension or expulsion of a Member State as it does to its admission. Without hesitation, therefore, I would say that this precisely governs the question before us today and I would also say, if I may, that any ruling by you, Mr. President, or any decision by this Assembly to the contrary would in our view be manifestly unfounded and unlawful and indeed could only lead to an unconstitutional result.

64. Mr. JAIPAL (India): By an overwhelming majority, the General Assembly, in its resolution 3207 (XXIX), requested the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights.

65. The Security Council had a full discussion on this question and many delegations, including that of India, participated in it. That discussion disclosed not a single champion of South Africa's attitudes and not a single advocate of its racist policies. Every Member State unequivocally condemned the policies and practices of the Pretoria régime. Indeed, all Member States are agreed on this.

66. The sum total of the relations of the United Nations and South Africa is simply that, on the one hand, the United Nations and its organs have been repeatedly urging the racist régime of South Africa for several years to abandon its policy of *apartheid* and to relinquish its illegal occupation of Namibia, and, on the other hand, the South African régime is consistently ignoring the collective will of the United Nations and continues its pernicious policies, which have been assessed by the United Nations as posing a threat to international peace and security.

67. No amount of pressure, influence and persuasion has so far deflected the white régime from its chosen doctrine of racial supremacy over the blacks, the browns and the Coloured people. The question now facing us is simply this: Should we continue to address recommendations to that racist régime which has remained impervious and indifferent to our resolutions? I suggest that that is a valid question in the light of our unfortunate experience with past resolutions.

68. It is not surprising that in such a situation the majority of the Members of the United Nations should feel that it is quite hopeless to expect South Africa to respond positively to our recommendations. What, then, are the options open to us? The expulsion of the white régime in terms of Article 6 of the Charter is certainly one of the options; but, unfortunately, three permanent members of the Security Council have vetoed such a course of action. One may expect a

similar decision in regard to action to suspend South Africa in terms of Article 5 of the Charter.

69. In vetoing expulsion, those three Member States have made it quite clear that they do not support South Africa's racist policies and attitudes. On the contrary, they have condemned those policies, and yet they remain hopeful of bringing about a change in the policy of the Pretoria régime. This is a hope which we do not share. In our opinion, there is little evidence in support of such a hopeful posture. However, in casting their vetoes those three Member States have naturally assumed responsibility for fulfilling their own hopes by influencing South Africa sufficiently to secure its compliance with the resolutions of the United Nations. Well, we wish them good luck.

70. The General Assembly is unable to expel South Africa in the absence of a recommendation to that effect by the Security Council. It finds itself in the same position in regard to any action to suspend South Africa. What are the alternatives before us?

71. The Credentials Committee accepted the credentials of the representatives of more than 100 Member States, with the exception of the credentials of South Africa [see A/9779]. Under the rules of procedure, the function of the Credentials Committee is to examine the credentials of representatives and to report thereon to the General Assembly.

72. The General Assembly considered the report of the Credentials Committee and approved that report on 30 September [resolution 3206 (XXIX)]. In doing so, it approved the credentials of the representatives of all the Member States, with the exception of the credentials of South Africa. What is now the position of the credentials of the representatives of South Africa? They have clearly not been approved. They have in fact been rejected, as in previous years. And if there should be any doubt—and there is none in our minds—those credentials can be put to the vote separately in the plenary Assembly.

73. What is the effect of rejecting the credentials of the representatives of South Africa? In past sessions of the General Assembly, solemn warnings were delivered by Presidents of the General Assembly. It is pointless to continue to address warnings to South Africa when those warnings have been ignored and will be ignored. And they are ignored because the General Assembly has proved to be impotent, it has proved to be powerless to do anything in the matter.

74. Surely it is very odd—indeed it is anomalous—that the representatives of a Member State whose credentials have been rejected should be allowed to participate in the work of this session of the General Assembly. Logic and common sense are in favour of our deciding that the representatives of South Africa should not be allowed to participate in this session. Surely this decision is within our competence. This would be perfectly justified by our rules of procedure. A reading of rule 29 makes it clear that even provisional admission of representatives is permissible only until the General Assembly has accepted their credentials. *Ipsa facto*, where the credentials are rejected the inference is obvious that the representatives should not be admitted to that session of the General Assembly. Any other inference would be illogical and would do violence to our rules of procedure.

75. The representative of the United Kingdom spoke at length about the constitutionality or otherwise of the General Assembly's expelling or suspending South Africa. I am going to make a different point.

76. In rejecting the credentials of the representatives of South Africa, we are in fact acting in accordance with our rules of procedure and also in conformity with the Charter; and I say that in deciding not to admit the representatives of South Africa to this session of the General Assembly we shall be acting in conformity with our rules of procedure, and certainly with their spirit, and in doing so we shall certainly not be acting contrary to the Charter, because we shall not be expelling or suspending South Africa. We shall only be deciding not to allow the representatives of South Africa to participate in this session of the General Assembly—and that does not need the recommendation of the Security Council.

77. Mr. SCALI (United States of America): My delegation cannot accept the argument that the vote in the Security Council on the South African issue on 30 October last in any way changes the clear wording of Articles 5 and 6 of the Charter; nor, in our view, does it in any other way permit the Assembly at this or any other session to deprive a Member of the rights and privileges of membership.

78. I am deeply concerned over the criticism of my delegation's vote in the Security Council on the South African matter. I categorically reject any implication that our vote was anti-African or anti-United Nations, or was motivated by any support whatsoever for *apartheid*. As I had hoped was clear from the many times on which my delegation has expressed this view, the United States Government thoroughly opposes the policy of *apartheid*. We support the self-determination as soon as possible of Namibia. We call on South Africa to fulfil its obligations under Article 25 of the Charter and to comply with Security Council resolutions on Southern Rhodesia. Has it been forgotten that the United States imposed its own arms embargo on South Africa before the United Nations did?

79. Our vote in the Security Council reflected our strong belief that the continued presence in the United Nations of South Africa would best allow Members to continue pressure for necessary reforms in that nation, as well as for changes in Namibia and Southern Rhodesia. As I said in my explanation of vote before the Security Council on 30 October last:

“My delegation believes that South Africa should continue to be exposed, over and over again, to the blunt expressions of the abhorrence of mankind for *apartheid*. South Africans should not hear of that abhorrence only from afar, from beyond the range of our voices, where we would be casting them by expulsion from our ranks. Our analysis is that expulsion would say to the most hardened racist elements in South Africa that their indifference to our words and resolutions has been justified. We think it would say to the South Africans that we have not heard, or do not wish to encourage, the new voices—the voices that augur hope of change. We believe that the United Nations must continue its pressure upon South Africa, moving step by step until right has triumphed. It is self-defeating to fire a single, last, dramatic salvo with only silence



to follow. History holds no example of a pariah State that reformed itself in exile. The pariah is by definition an outlaw, free of restraint. There is no record of good citizenship in the land of Nod, east of Eden, where Cain, the first pariah, was banished.

“My delegation has another grave concern about the wisdom of expelling South Africa. Even if this would help thwart the crime of *apartheid*, expulsion would set a shattering precedent which could gravely damage the United Nations structure.”<sup>8</sup>

80. My delegation further believes that the expulsion of South Africa would reverse the evolution of the United Nations towards ever wider membership.

81. These were our reasons and our only reasons. We hold them no less deeply than those who have a different view hold theirs. We respect that different view and we expect no less in return. We also expect that the clear words of the Charter will be honoured. This Assembly may be master of its procedures, but not of our Charter, which remains the paramount document governing our existence as an organization based on law.

82. Mr. DE GUIRINGAUD (France) (*interpretation from French*): The French delegation has heard with regret the criticisms voiced from this rostrum with respect to the vote we cast on 30 October in the Security Council. We therefore would wish all the more to set the record straight, since these criticisms were offered by certain friendly countries with which France shares a great many concerns, and whose view we respect.

83. Two aspects, I think, must be carefully distinguished in this matter. One concerns the use of the right of veto *per se*, and the other, the position taken by my country in the matter of relations between the United Nations and South Africa.

84. The French delegation does not refuse to discuss problems connected with its exercise of the responsibilities conferred upon it by the Charter. It is only to be expected that the States that enjoy special powers should explain how they conceive of those powers. As far as we are concerned, the right to use does not mean the right to misuse. In other words, the veto provided by the Charter is not only a privilege, but also a responsibility. I would go even further and say, for my own part, that the veto is a grave responsibility involving the understanding we should have of our common interest. France, as a founding Member of our Organization, has, from the very outset, been very much aware of its duty to be objective, cautious and thoughtful, as is required of it in its capacity as a permanent member of the Security Council. My country has cast only five vetoes of the 132 that have been recorded since 1945. We therefore feel that we have given ample evidence of our moderation. I shall leave it to history to decide whether the French delegation has contributed, as I firmly believe it has, in a positive way to the settlement of the crises in which the United Nations has been involved during the last 29 years.

85. With respect to the reasons that led us to vote as we did on 30 October last, I would first of all ask those who criticize us to re-read the statement I made

the same day before the Security Council,<sup>9</sup> and I would urge them to consider what I said, the condemnations I uttered, the doubts that I expressed—in short, the entire range of reasons that led France to oppose a measure we considered as not being in accordance with the rules and regulations of our Organization.

86. What the French delegation said on 30 October was the result of careful thought and I can only recall here the principal considerations which guided my country.

87. First of all, I would emphasize once again that France has never either defended or protected the South African régime. That a system should measure fundamental freedoms by the colour of one's skin, I said on 30 October, is in itself inadmissible and to be condemned. *Apartheid* is undemocratic. I added that the Government of South Africa should without delay withdraw its police forces and military personnel from Southern Rhodesia; that it was duty-bound urgently to negotiate a new régime in Namibia on the basis of the right of the people of Namibia *per se* to independence in a unified territory.

88. The three major complaints against the South African régime, which my delegation expressed with as much force as it possibly could, will continue to be the foundation of my Government's policy until substantial progress has been made along the lines we should all like to see. What we actually tried to bring out was quite simply the fact that it was impossible to come to a point where we could make any progress by such a brutal stroke as the expulsion of a Member State. As Mr. Salim of the United Republic of Tanzania said a few moments ago, we too have faith in the United Nations Charter; but I would once again put the question: Could we receive Namibia more quickly in our midst if we had expelled from our ranks the Power which *de facto* has administrative authority in the Territory?

89. Facts are often more stubborn than the most legitimate principles of law, and it is the facts that we shall have to cope with, as patient and realistic men. The interest of the United Nations is to be found in this realistic attitude. It lies in the search for better means of exerting effective pressure on the realities confronting us. Finally, I should like to say here once again, it lies in the prudence with which we should avoid committing ourselves to a series of radical measures which could create dangerous precedents.

90. I do not think I could conclude this clarification in any better terms than by repeating some words I used on 30 October: “our world is developing and the situation of Africa is developing”.<sup>9</sup> All Africans know this in their innermost being. They know that southern Africa also must evolve, and they are preparing for it. The United Nations can and should help that process. It can and should accelerate it by its pressures and by its warnings, such as those addressed to the Government of South Africa, but it should also, while being vigilant, remain realistic in its decisions and actions.

91. Mr. INGLES (Philippines): My delegation would like to voice the sentiments of the member States of the Association of South-East Asian Nations, which voted unanimously in the Assembly for the rejection of the credentials of the representatives of South

Africa as well as for the resolution asking the Security Council to review the relationship between South Africa and the United Nations. No one listening to the many statements that have been made here today and in the past few weeks in the Security Council and the General Assembly could fail to be impressed by the fact that the peoples of the world are unalterably opposed to the policy of *apartheid* and believe that the South African régime is no longer fit to remain a Member of the United Nations. After almost 30 years of United Nations concern with racial oppression and exploitation in South Africa the Organization has reached a turning-point in its relations with South Africa. The question must be asked, is it in the interest of the United Nations that a Member State that has persisted in violating all its resolutions and the principles by which civilized societies live should continue to enjoy United Nations membership, with all its privileges and appurtenances?

92. The answer to the question is simple and straightforward: it is not in the interest of the United Nations for South Africa to continue to enjoy the benefits and at the same time to eschew the responsibilities of membership. It is the considered view of the Philippines that South Africa's membership in the United Nations, in this era of decolonization, is no longer tenable; that its membership has become an unacceptable challenge to its very integrity. It is inexplicable that, in this age of liberation, a white minority régime should be allowed to stop the clock of decolonization and with implacable ruthlessness rule over the overwhelming black majority with its anachronistic doctrine of racial superiority.

93. It is clear that we cannot allow South Africa to continue to defy the authority of the United Nations and to flout the principles of the Charter and the Universal Declaration of Human Rights without ourselves becoming accomplices in the certain erosion of the very foundations of our Organization. That is why we deplore the veto exercised by three permanent members of the Security Council against the passage of the draft resolution which would have expelled South Africa from the United Nations. That veto was exercised despite the affirmative vote of 10 members of the Security Council.

94. In an effort to stem the tide of world opinion, the South African representative spoke before the Security Council what appeared to be words of conciliation and compromise. In fact, what he did was to attempt to justify the white minority régime's blatant flouting of General Assembly and Security Council resolutions and its policies of *apartheid*, policies which have earned the obloquy of universal condemnation. What he offered the Council was the familiar rationale of colonialism and the so-called white man's burden, which has long been discredited.

95. The representative of the white minority régime in Pretoria blamed the United Nations for what he called tactics of confrontation. The United Nations is not engaged in a confrontation with South Africa: it is South Africa which persists in its confrontation with the United Nations.

96. What better proof than that nearly 30 years of United Nations appeals to the *apartheid* Government have fallen on deaf ears, and that that Government has no intention, now or in the future, of implementing

any of the United Nations resolutions? Indeed, the South African representative defied the Security Council itself when he denied that the United Nations had authority to deal with the question of *apartheid*.

97. Even while he was addressing the Security Council on 24 October 1974,<sup>10</sup> several people were being arrested in South Africa and charged under the Terrorism Act for no other crime than having attended political rallies in solidarity with the people of Mozambique; and new tales of torture and terror in South African gaols were being published in the press—in the South African press, I must add, since the South African representative sought to deny the truth of United Nations reports by arguing that they were based on "inadequate, prejudiced and often grossly distorted information".<sup>11</sup> Since my delegation is this year's Rapporteur of the Special Committee on *Apartheid*, I wish to inform the Assembly that the bulk of the information contained in those reports emanates from the South African press itself. The racists are accusing themselves through their own acts, regardless of where or how those acts are reported.

98. In the history of international organizations, I have yet to hear a statement by any representative as cynical as the statement made to the Security Council by the representative of the racist régime on 24 October last. In his statement he said: "We do have discriminatory practices and we do have discriminatory laws".<sup>12</sup> As if that statement were not startling enough, the representative of the South African régime sought to justify the existence of discrimination and *apartheid* by adding that his Government "does not condone discrimination purely on the grounds of race or colour".<sup>13</sup> Discrimination, on any ground, it goes without saying, is condemnable and reprehensible, and the South African representative has convicted the South African Government by his very words.

99. I do not think that any statement by any representative to the United Nations is more self-incriminating than those words of the representative of South Africa. The tragedy of it is that he thought he was exercising commendable candour when he tried to show that the white minority do not hate the black majority in South Africa. The truth is that the black majority do not wish to be segregated and abused, even in the name of brotherly love.

100. In citing statistics pertaining only to expenditures on the black majority, the South African representative was indulging in the transparent tactic of trying to obscure the fact that *per capita* expenditures for the white minority are many times more than *per capita* expenditures for the black majority. Separate and equal treatment is at best an illusory goal; at its worst, it is the most glaring example of gross and permanent inequality, and runs counter to the principle of the dignity and worth of the human person as consecrated in the Universal Declaration of Human Rights.

101. In essence, what the South African representative tried to say was that the policy of *apartheid* of the South African Government was motivated by what it believed to be in the best interests of the black majority. Does not the South African representative know that his people cannot really tell the black people what is good for them—that in the long run it is the

black majority themselves who must determine their own destiny?

102. The question before us is not whether the expulsion of South Africa will create a dangerous precedent, but whether this Organization can afford to be rendered so utterly impotent that it cannot even enforce respect for its laws and its institutions by one of its Members. To say the least, it would be a more dangerous precedent to let South Africa remain a Member of the United Nations after it has demonstrated its unworthiness by persistently defying resolutions of the General Assembly and the Security Council and flouting the principles of the Charter of the United Nations.

103. It is skirting the issue to say that racial discrimination exists elsewhere in the world and that the United Nations should not interfere in a problem allegedly a domestic affair under Article 2, paragraph 7, of the Charter. Needless to say, countless United Nations resolutions have rejected this jaundiced view, which fails to recognize that *apartheid* is a problem of colonial and national oppression, and therefore a threat to peace, under Article 39, and an international concern. It is a view which also ignores Article 6 of the Charter, which states:

“A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.”

104. Finally, some countries have argued that we should not expel South Africa, because dialogue and persuasion are tactics preferable to pressure and confrontation. But how long must the United Nations engage in dialogue and persuasion with the racist régime? My delegation believes that 30 years is ample time; and to pretend that there would be a miraculous change of heart on the part of the racist régime is to ignore its arrogant defiance of the United Nations all these years.

105. It has been alleged, in support of the veto cast by the three permanent members of the Security Council, that South Africa is more likely to respond to resolutions of the United Nations by continued exposure within the Organization rather than outside of it. But what manner of exposure is expected to work when South Africa has not indicated any basic change in its attitude, even under the threat of expulsion? Admission of discrimination, yes; but no resolve to eliminate that discrimination. Is that not continued defiance under the most extreme pressure, the threat of expulsion? I am afraid that any further pressure on South Africa after the historic veto in the Security Council would be nothing more than an anticlimax.

106. History has already condemned South Africa, and the *apartheid* régime is today an international outcast. Not even its friends and allies are prepared to defend South Africa's *apartheid* policies, and they often feel compelled to keep their relations with South Africa under a veil of secrecy.

107. The so-called policy of dialogue and persuasion has proved utterly ineffective in dealing with a ruthless, oppressive régime like South Africa. The oppressed people of South Africa tried to negotiate and to present their grievances peacefully; they were shot

at, imprisoned, tortured, and hounded into exile. The United Nations tried to appeal to South Africa and to convince it to change its ways; the General Assembly and Security Council resolutions were ignored and derided, and the United Nations was told it had no authority to interfere in South Africa's affairs.

108. The entire structure of *apartheid*—of the *apartheid* State—was established and implemented in the very years in which the United Nations was appealing to South Africa to abide by its obligations under the Charter.

109. On the question of Namibia, South Africa has held the rulings of the International Court of Justice and United Nations resolutions in utter contempt.

110. South Africa has consistently refused to respect the arms embargo against Southern Rhodesia and has instead sent troops to help the illegal white régime there.

111. We have seen, time and again, that only when subjected to strong pressure from the international community has the *apartheid* régime felt the need to introduce superficial changes in its policies. Unfortunately, we all know that these changes have at best been mere window-dressing, and that the *apartheid* régime is totally opposed to any substantial shift in its policies.

112. The Prime Minister of South Africa, in thanking the three big Powers who exercised their veto in the Security Council to block the expulsion of South Africa, hinted that changes were forthcoming, perhaps in the next six months. But in the same breath he dashed the hopes of those who were inclined to believe that pressure from the Big Three would speed up the wind of change in South Africa. The Prime Minister declared in no uncertain terms that whatever reforms might be introduced in South Africa the rule of the white minority would not be changed.

113. The oppressed peoples of southern Africa, who have suffered untold oppression and indignities for generations, await our action with great anticipation. In their hearts beat the universal aspirations for equality, justice and freedom felt by man everywhere. After the veto in the Security Council they look to the General Assembly to do everything possible at the very least to persuade the three permanent members of the Security Council to redress the grievous wrongs committed against them and not to obstruct the universal demand for the expulsion of South Africa from the United Nations.

114. In the mean time, we associate ourselves with the request of the representative of the United Republic of Tanzania on behalf of the African group for guidance from the Chair as to the legal effect of the decision of the General Assembly to reject the credentials of the representative of the white minority régime in South Africa. We agree that the question of credentials is distinct and separate from the question of membership or of suspension or expulsion from membership. In other words, on the question of credentials we should be guided by General Assembly resolution 3151 G (XXVIII) of 14 December 1973, paragraph 11 of which reads:

“Declares that the South African régime has no right to represent the people of South Africa and

that the liberation movements recognized by the Organization of African Unity are the authentic representatives of the overwhelming majority of the South African people.”

115. This is not a new concept because, as we stated in the Credentials Committee, in a similar case both the General Assembly and the Security Council have refused to recognize the illegal racist régime in Southern Rhodesia as representing the people of Zimbabwe. Moreover, the General Assembly had previously refused to recognize the Government of Portugal as representing the people of Guinea-Bissau. That the Government of Portugal has finally acceded to the demand for independence of Guinea-Bissau is abundant proof of the wisdom of the policy of non-recognition followed by the General Assembly.

116. Mr. MALIK (Union of Soviet Socialist Republics) (*interpretation from Russian*): Once again the General Assembly is considering the question of South Africa and the illegal presence of the representatives of its racist régime in the United Nations. Very recently, by an overwhelming majority, the General Assembly decided not to recognize the credentials of the delegation of South Africa at the twenty-ninth session of the General Assembly [*resolution 3206 (XXIX)*].

117. On the recommendation of the General Assembly [*resolution 3207 (XXIX)*] the Security Council for two weeks considered the question of relations between the United Nations and South Africa in view of the constant violation by the racist régime of South Africa of the Charter of the United Nations and the Universal Declaration of Human Rights. A full discussion was held on this matter. Indeed, over and above the 15 members of the Security Council, the representatives of 36 States not members of the Security Council took part, as well as the representatives of national liberation movements. A record number—more than 50—of Member States of the United Nations condemned outright in the Security Council the racist régime of South Africa for its policy of *apartheid*, racial discrimination and segregation and for the fascist terror and violence practised against the African and Asian population of that country—almost 20 million strong—and hence, for the violation by South Africa of the United Nations Charter.

118. The African countries, together with Iraq, submitted in the Security Council a draft resolution recommending South Africa's exclusion from the United Nations.<sup>4</sup> Support for that proposal was expressed by an overwhelming majority of countries not members of the Security Council whose representatives were participating in the discussion of this item, and by States members of the Security Council.

119. Such a wide-ranging discussion of this issue in the Security Council became a *sui generis* international trial of the fascist and racist régime of South Africa for its criminal policy of racism and *apartheid* directed against the people, which has been condemned by the United Nations and declared a crime against humanity. This was a sort of second international Nuremberg trial of the fascist ideology, and the propaganda of racism and the superiority of some races and nations over others.

120. All delegations at this session of the General Assembly, and the entire world, are well aware of the unanimous and just demand of the peoples and States of the African continent for the exclusion of South Africa from the United Nations. The draft resolution was not adopted in the Security Council simply because of the votes cast against that proposal by three permanent members of the Security Council. The racist régime of South Africa continues to remain a Member of the United Nations, although it is not worthy of being a Member of this international Organization because its policies and practices fly in the face of the elementary principles of international law and are incompatible with the principles and purposes of the Charter of the United Nations, the foundation of which is the profound humanitarian ideals of equality and liberty for all peoples, irrespective of differences of race, sex, language or religion.

121. It has once again been demonstrated to the entire world, more clearly than ever before and in the most striking and convincing way, who are really the friends of the African peoples struggling for their liberty and national independence, and who merely condemn *apartheid* and racism in words, while their deeds show that they side with the racists.

122. The delegation of the Soviet Union has already had an opportunity in the Security Council to give a detailed account of its attitude to this matter. The Soviet Union always consistently and decisively supports actions and measures aimed against colonialism, racism and *apartheid*. It is in favour of the United Nations taking the most decisive steps against the racist régime of South Africa. The Soviet Union, together with the African States and many other Member States of the United Nations, is in favour of applying against that régime any of the enforcement measures or sanctions laid down in the Charter of the United Nations. In the Credentials Committee and subsequently in the General Assembly, the Soviet Union voted in favour of not recognizing the credentials of the delegation of South Africa at the twenty-ninth session of the General Assembly. Together with the African countries and many other Member States of the United Nations, the Soviet Union sponsored a draft resolution recommending that the Security Council consider the question of the relationship between the United Nations and South Africa [*A/L.731/Rev.1*]. The delegation of the Soviet Union supported the African and other countries in the Security Council and with them voted in favour of the expulsion of South Africa from the United Nations.

123. This consistent position held by the Soviet Union is a natural reflection of the fundamental foreign policy of the Soviet Union in matters relating to the struggle against colonialism and *apartheid*, in support of the peoples of Africa in their just struggle for their freedom and national independence. Referring to that policy of the Soviet Union, a member of the Politburo of the Central Committee of the Communist Party of the Soviet Union, the Minister for Foreign Affairs of the Soviet Union, Mr. Gromyko, in his report in the Kremlin on 6 November of this year, on the occasion of the fifty-seventh anniversary of the Great October Socialist Revolution, declared:

“Those October days marked the beginning of the fundamental policy of the Communist Party of the Soviet Union and of the Soviet State to support peoples that are struggling for their national liberation, for political and economic independence. This policy is the very foundation of our co-operation with many developing States in Asia, Africa and Latin America. And where colonialism still manages to remain entrenched, those peoples that are struggling against it know that they are guaranteed the effective support of the Soviet Union”.

124. In accordance with these lofty principles, the Soviet Union gives full support to the African countries and their peoples in their efforts to do away once and for all with the vestiges of colonialism, racism and *apartheid* in the southern part of Africa.

125. The delegation of the Soviet Union will support the proposal of the African countries, which was contained in the statement made by the representative of the United Republic of Tanzania [*paras. 2-17 above*], and the decision of the President of the General Assembly, if such a decision is made, to suspend the rights and privileges of the racist régime of South Africa in the United Nations and to cease to admit the agents of this misanthropic régime to participate in the work of the General Assembly, its Committees and other bodies of this international Organization. This would be a just and a justified act on the part of the United Nations towards the racist and fascist régime of South Africa and at the same time would be a severe international warning to it and a demand that it put an end to the policy of *apartheid* and racism.

126. Some speakers here, in trying to justify their position, have appealed to the Security Council and the General Assembly to observe the Charter strictly, but this is an elementary truth. The Security Council and the General Assembly must observe the Charter, as the principal organs in the Organization. If they do not observe the Charter, then the United Nations will cease to be what it was supposed to be according to the Charter. The appeals of these speakers for respect for the Charter should have been addressed, not to the Security Council and the General Assembly, but to South Africa and its delegation here in the Assembly. If South Africa fulfilled and strictly observed the Charter, there would be no problem such as the one we are now obliged to discuss in the Assembly. At the same time, certain speakers defended the idea that the delegation of South Africa should be present at meetings of the Assembly and participate in its work, but it is in fact absent from today's meeting. Look at its place in this Hall; the seats are empty. So whom are they trying to defend? South Africa itself has not even decided to be represented here, because it feels its responsibility for violating the Charter. These are the people to whom you have to address appeals about the need to observe and abide strictly by the Charter.

127. Mr. OGBU (Nigeria): Much too often this Organization is reminded or lectured about the fact that it is governed by the Charter. Of course, we accept this without having to be reminded of it, but do those who constantly remind us of the Charter of this Organization accept all parts of the Charter or only that part that confers the veto power on them? They talk about rights and privileges. Have they no responsibilities?

Of course we can all quote the Bible, and so can the Devil for his purpose.

128. We have been told by one of the representatives of the permanent members of the Security Council that we should not tell the permanent members of the Council what to do, but that representative then immediately proceeded to tell the Assembly, and, in fact, the President of the General Assembly, what to do and what not to do. Is there not a mistake somewhere? My delegation would like to remind the delegation of Her Majesty's Government that one of the legacies of British imperialism is the use of the English language. I believe that the British were very good teachers and that we, the former colonial peoples, were not bad students either.

129. The General Assembly is not discussing now what the Security Council is seized of, as this would clearly be contrary to Article 12 of the Charter, and we can read that too. We are not discussing suspension and/or expulsion in accordance with Article 5 or Article 6 of the Charter. We know the provisions of those Articles also.

130. Do we really need to be lectured on common law, international law or the Charter itself by the representative of a permanent member of the Security Council, when the permanent members and other Western European Powers in the Security Council have so often blatantly contravened mandatory resolutions of the Council which they themselves adopted, or are we supposed to be running around in circles, to be led by those who, unless the Charter says what is in their own national interests, say that we should ignore it? We are tired of the argument being adduced that the members of the Security Council are, as it were, free agents in considering the issues referred to the Council by the General Assembly. While each member of the Security Council is sovereign, just as are the Members of the General Assembly, the unwritten spirit of the responsibility imposed on the Security Council cannot mean that the Council will pull one way while the General Assembly pulls the other. In fact, the Security Council derives its power from the Members of this Organization. Quite often this fact is forgotten. Without the United Nations there cannot be a Security Council—much less permanent members—and the five permanent members by themselves do not and cannot constitute the United Nations.

131. Article 24 sets out clearly the link between the general membership of the United Nations and the Security Council:

“In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility . . . and agree that in carrying out its duties . . . the Security Council acts on their behalf.”

132. Thus, the Security Council cannot pretend to act in accordance with the Charter if it hinders prompt and effective action on a matter of the greatest concern to the overwhelming number of the membership, on behalf of which it is expected to act. The representative of the United Kingdom seems to forget that the Charter obliges members of the Security Council to act not in their own national interests, but “in accordance with the purposes and principles of the United Nations”. It is the view of the General Assembly that

South Africa's presence in this Assembly is detrimental to the interests of this Organization.

133. I should like to confirm an observation recently made by the representative of the Soviet Union and ask: Does not the continuously empty seat of the *apartheid régime's* delegation in all the Committees and in the General Assembly belie the claims of the three veto Powers of keeping lines of communication open? The régime simply wants to use the United Nations membership for its international respectability and internal deception, for the white population in South Africa is worried by possible isolation, but the blacks in South Africa are inspired by world support for their cause, and we should not disappoint them.

134. By examining the credentials of the delegation of South Africa and rejecting them, the Credentials Committee acted in accordance with its authority and it acted legally. By adopting the report of the Credentials Committee and recommending that the Security Council review the relationship of South Africa with the United Nations, the General Assembly acted properly and constitutionally. The Security Council, by taking a majority decision against South Africa, acted on the basis of the facts before it, and therefore acted constitutionally. It is the three Powers which exercised the veto power in favour of South Africa that acted on the basis of self-interest, on political motivations and not on the basis of the facts and considerations which they themselves also upheld in condemning *apartheid*. They should have acted in a manner to uphold to the end the Charter of the United Nations.

135. The representative of the United Kingdom seems to have a very narrow view of how the United Nations Charter should be upheld. On the one hand, he does not see that the Charter has been dangerously undermined by its persistent violation by South Africa. On the other hand, he sees the exclusion of South Africa as illegal and unconstitutional and as a dangerous precedent that would jeopardize the United Nations. This argument, to my delegation, appears not too strange, for the maintenance of double standards is a permanent feature of a colonialist and neo-imperialist mentality, as manifested by the three Powers which exercised the veto in favour of South Africa.

136. My delegation believes that, in accordance with Article 21, the General Assembly is seeking to interpret its decisions reached resulting from its actions in accordance with rules 27 to 29. The Assembly is therefore, in the opinion of my delegation, acting constitutionally, legally and in accordance with the provisions of the Charter and the rules of procedure of the General Assembly.

137. The PRESIDENT (*Interpretation from French*): The President intends to give his ruling after hearing the following speakers: the representatives of China, Guatemala and Iraq.

138. Mr. HUANG Hua (China) (*Interpretation from Chinese*): On September 30, the General Assembly rejected the credentials of the representatives of the racist régime of South Africa [*resolution 3206 (XXIX)*], and by the overwhelming majority of 125 votes called upon the Security Council to review the relationship between the United Nations and South Africa

[*resolution 3207 (XXIX)*]. During the Security Council deliberations on this question, the representatives of many Member States and the African liberation movements made speeches, strongly condemning the South African authorities for their illegal violations of the principles of the Charter and United Nations resolutions, and expressing the unanimous view that the South African racist authorities have no right to represent the Azanian people, nor are they qualified to remain in the United Nations. The draft resolution submitted by Iraq, Kenya, Mauritania and the United Republic of Cameroon calling for the expulsion of South Africa from the United Nations<sup>4</sup> is perfectly just and reasonable, and it obtained the support of 10 Council members. It was only because of the veto cast by three permanent members, the United States, United Kingdom and France, that the draft resolution was not adopted. This has prevented the will of the overwhelming majority of Member States from being translated into action, that is, to punish the South African racist authorities for their serious violations of the principles of the Charter and numerous resolutions. The result of the Security Council deliberations on this question has greatly disappointed and angered the overwhelming majority of Member States as well as the Azanian and African people and all justice-upholding peoples of the world. People are watching closely to see whether the United Nations will allow three permanent members to abuse their veto power to nullify the rights and will of the more than 100 Member States. This is a serious test for the United Nations.

139. It can be seen from the recent words and deeds of the South African authorities and their representatives that they have not the slightest intention of renouncing their fascist policies of *apartheid* and racial discrimination. In order to support the struggle of the Azanian and Namibian peoples, the President of the Assembly, in compliance with the strong desire of the overwhelming majority of Member States, would be right to make a ruling forbidding the representatives of the South African racist authorities from participating in the work of the plenary meetings and Main Committees of the current session. In the opinion of the Chinese delegation, such a ruling would be entirely just. As regards the objections to the General Assembly action against South Africa raised by some representatives on the basis of a number of so-called legal arguments, they are totally untenable. This is a distortion of the Charter and a defiance of the historical facts of the United Nations. At its twenty-sixth session, in 1971, the General Assembly expelled the Chiang Kai-shek clique which usurped the seat of China. That was an independent action taken by the General Assembly by breaking through the obstructions of a certain permanent member. In the view of the Chinese delegation, a ruling by the President forbidding the South African racist representatives from participating in the work of the Assembly would be a minimum ruling in accord with the spirit of the Charter and the practice of the Assembly and perfectly just. It would certainly be supported by the overwhelming majority of Member States and welcomed by all justice-upholding countries and peoples of the world.

140. Mr. VILLAGRÁN KRAMER (Guatemala) (*Interpretation from Spanish*): Guatemala has been and

will always be, whenever the occasion arises, absolutely in solidarity with the struggle and the efforts of the African peoples to achieve their independence and self-determination and the full enjoyment of the rights proclaimed in the Universal Declaration of Human Rights. This makes us view with obvious sympathy any effort that would lead to the achievement of such goals.

141. Guatemala can in no way associate itself with the policy of *apartheid* which the South African Government has been carrying out. Our continued and firm support of the various condemnations that have been adopted in the United Nations is evidence of this, and we shall continue this policy.

142. However, the fact is that the General Assembly—despite its growing role in matters which, because of their character and nature, are eminently political—does not have full competence to exclude a State from its deliberations when that State is a Member of the United Nations and enjoys its rights as such. The competence of the General Assembly is subject to certain requirements according to which, in this case and in this matter, a recommendation from the Security Council is necessary first; and therefore, so long as the Security Council does not make any recommendation, the General Assembly would be exercising a jurisdiction that in strict law is not properly its right.

143. The delegation of Guatemala would like to be in a position to assist in a solution that would not lead to action outside the framework of the Charter or action, in which the Assembly could be charged with exceeding or misusing its competence. We should like to see any decision adopted by this Assembly conform with the provisions of the Charter, that is to say, that it could be carried out effectively. The formula that has been put forward unfortunately leaves the door open for a challenge by the State concerned. We should recall that it is only in special cases of an exceptional nature, in which the Security Council cannot take a decision, that the General Assembly can take up matters that call for immediate action, and these cases are primarily when it is acting to represent the interests of the international community in order to restore peace. Therefore, if this matter were to be put to the vote, Guatemala would not be able to vote in favour of any recommendation contrary to the spirit and text of the Charter; and, in any event, the very fact that we are discussing the effects of the policy of *apartheid* on the participation in this Assembly of the Republic of South Africa highlights the rejection by the international community of this policy.

144. Mr. ZAHAWIE (Iraq): My delegation did not intend to speak this afternoon. Our position concerning the question of South Africa's position within the United Nations was made abundantly clear in the Security Council on 30 October, in the course of the debate on the item entitled "Relationship between the United Nations and South Africa".<sup>14</sup>

145. The reason for our coming to this podium now is in the nature of an exercise of the right of reply. Certain delegations, which have spoken earlier in the debate, have criticized the move made in the Security Council for the expulsion of South Africa from the United Nations. They proceeded then to explain their position on the question of the credentials of South Africa within the context of defending the Charter of

the United Nations and of the necessity of abiding by its principles as a fundamental, constitutional law binding upon all Members of this Organization.

146. My delegation was one of the members of the Security Council that sponsored the draft resolution calling for the expulsion of South Africa.<sup>4</sup> May I be allowed to point out that we embarked upon that step precisely because of South Africa's persistent violation of the Charter and its refusal to abide by the Charter's basic principles? The continued presence within the Organization of such a Member, which has persistently flouted the principles of the Charter and defied the whole Organization, in no way contributes to safeguarding the Charter. The expulsion of such an outlaw, on the other hand, could be an act to uphold the principles of the Charter and enhance its credibility. South Africa's continued presence in the United Nations not only implies an endorsement of South Africa's policy, but also, in fact, undermines the Charter and threatens the very fabric of this Organization. I hardly need to add in conclusion that my delegation associates itself with the request addressed to you, Mr. President, by the representative of the United Republic of Tanzania on behalf of the African group.

147. Mr. MAINA (Kenya): Mr. President, this is not an occasion for a long debate. The question has been addressed to the Chair and we have to give the Chair a chance to give an answer. However, some delegations, notably those that abused the valuable veto vote, have seized on the occasion to justify that abuse. My delegation, like others before me, rejects the proposition that the General Assembly is discussing the question of the expulsion of South Africa from the United Nations. That question remains in the Security Council and will be raised in that Council at an appropriate time. What is before this Assembly is a simple question of procedure arising out of the rules of procedure of the General Assembly.

148. Mr. President, rule 29, to be found in the relevant rules of procedure, which reads as follows, is the relevant one:

"Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Credentials Committee has reported and the General Assembly has given its decision."

149. Any attempt to transfer the question addressed to the Chair out of this Assembly is to subject the General Assembly procedures to those of the Security Council. This is clearly misleading and flippant despite the seriousness with which the proposal is made.

150. Mr. President, the question before the Assembly can be dealt with quickly. The misuse of the veto by those who are conveniently oblivious of the long period they have obstructed the universality of the United Nations is nothing but an attempt to mislead this Assembly. The attempt cannot succeed.

151. It is my belief that the question before the Chair does not justify the reopening of the full debate on the relationship between the United Nations and South Africa. That debate will continue in the Security Council in the days to come.

152. For these reasons, my delegation urges that the question be answered by the Chair as early as possible.

153. The PRESIDENT (*interpretation from French*): Today, for the first time, I am asked to state here my interpretation of the General Assembly's decision to reject the credentials of the delegation of South Africa. In that connexion, I must say that the General Assembly, at its 2248th meeting on 30 September 1974, took two decisions. First, it approved the report of the Credentials Committee rejecting the credentials of the delegation of South Africa [*resolution 3206 (XXIX)*]. Secondly, it adopted resolution 3207 (XXIX), in which it called upon the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights.

154. In his letter of 31 October 1974 [A/9847], the President of the Security Council informed the General Assembly that the Council had not been able to adopt a resolution on this item and accordingly remained seized of the matter.

155. However, the absence of a decision by the Security Council in no way affects the General Assembly's rejection of the credentials of the delegation of South Africa. Since its twenty-fifth session the General Assembly has been regularly rejecting, each year, the credentials of that delegation. It did so until last year by adopting an amendment to the report of the Credentials Committee. In 1970, Mr. Hambro, who was then President of the Assembly, stated the following after the adoption of the amendment rejecting the credentials of the delegation of South Africa:

“... the amendment as it is worded at present” —and I emphasize “as it is worded at present”— “would not seem to me to mean that the South African delegation is unseated or cannot continue to sit in this Assembly.”<sup>15</sup>

156. It is clear that the opinion of Mr. Hambro, a legal authority to whom I wish to pay tribute, was based above all on the exact words of the decision adopted by the General Assembly in the form of an amendment. That opinion did not mean that if the amendment had been worded in some other way it might not have had different consequences for the legal position of the South African delegation in this Assembly.

157. The question is all the more worthy of consideration because rule 29 of our rules of procedure states:

“Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Credentials Committee has reported and the General Assembly has given its decision”.

158. That text perhaps does not indicate with sufficient clarity what should happen once the General Assembly has taken a decision confirming the objection to the admission of a representative or a delegation. Now, year after year, the General Assembly has decided, by ever-larger majorities, not to recognize the credentials of the South African delegation, and during this session the Credentials Committee itself took the initiative of rejecting those credentials. It has not been necessary for the Assembly to adopt an

amendment along these lines to the report submitted by the Credentials Committee.

159. It would therefore be a betrayal of the clearly and repeatedly expressed will of the General Assembly to understand this to mean that it was merely a procedural method of expressing its rejection of the policy of *apartheid*. On the basis of the consistency with which the General Assembly has regularly refused to accept the credentials of the South African delegation, one may legitimately infer that the General Assembly would in the same way reject the credentials of any other delegation authorized by the Government of the Republic of South Africa to represent it, which is tantamount to saying in explicit terms that the General Assembly refuses to allow the South African delegation to participate in its work.

160. Thus it is, as President of the twenty-ninth session of the General Assembly, that I interpret the decision of the General Assembly, leaving open the question of the status of the Republic of South Africa as a Member of the United Nations which, as we all know, is a matter requiring a recommendation from the Security Council. My interpretation refers exclusively to the position of the South African delegation within the strict framework of the rules of procedure of the General Assembly. That is my belief.

161. Mr. SCALI (United States of America): Mr. President, my delegation regrets that we have no choice but to challenge your ruling. We did not come to this decision lightly, and we do so only because of the overriding importance of the issue, the fundamental rights of a Member State under the Charter of the United Nations.

162. There is also an obvious conflict, Mr. President, between your ruling and the legal opinion given to this Assembly on 11 November 1970 at the twenty-fifth session.<sup>6</sup> Further, there is a conflict between your ruling and the practice that the General Assembly has consistently followed in the four years since then, at the twenty-fifth, the twenty-sixth, the twenty-seventh and twenty-eighth sessions and at the sixth special session held in spring this year. In addition, as we all know, during this twenty-ninth session, South Africa was allowed to vote without objection after the Assembly's decision on its credentials was made.

163. The legal opinion given at the twenty-fifth session remains as valid today, in our view, as it was then. It affirms that under the Charter the Assembly may not deprive a Member of any of the rights of membership. The Assembly may be master of its rules of procedure, but no majority, no matter how large, can ignore or change the clear provisions of the Charter in this way. We consider it to be a violation of the rules of procedure and of Articles 5 and 6 of the Charter for the Assembly to attempt to deny a Member State of the United Nations its right to participate in the Assembly, through this type of unprecedented action. Article 5 of the Charter expressly lays down rules by which a Member may be suspended. Article 6 of the Charter specifically provides the process by which a Member may be expelled. The Assembly is not empowered to deprive a Member of the rights and privileges of membership other than in accordance with Articles 5, 6 and 19 of the Charter. In our view, none of these circumstances applies in this case.



164. At the twenty-fifth session of the Assembly, the then Legal Counsel of the United Nations ruled:

“... Article 5 of the Charter lays down the following requirements for the suspension of a Member State from the rights and privileges of membership:

“(a) Preventive or enforcement action has to be taken by the Security Council against the Member State concerned;

“(b) The Security Council has to recommend to the General Assembly that the Member State concerned be suspended from the exercise of the rights and privileges of membership;

“(c) The General Assembly has to act affirmatively on the foregoing recommendation by a two-thirds vote, in accordance with Article 18, paragraph 2, of the Charter, which lists ‘the suspension of the rights and privileges of membership’ as an ‘important question’.

“The participation in meetings of the General Assembly is quite clearly one of the important rights and privileges of membership. Suspension of this right through the rejection of credentials would not satisfy the foregoing requirements and would therefore be contrary to the Charter.”<sup>6</sup>

165. It is our view that nothing has transpired in the General Assembly or the Security Council to affect the validity of that ruling. Since the Security Council remains seized of the range of South African questions, there is all the more reason why the Assembly cannot properly seek to take action to deprive South Africa of its rights of membership. The effect of the resolution of 30 September 1974 on credentials has the same effect as resolutions of previous years.

166. Mr. President, your action is taken in the context of the Assembly's action on the credentials item. The policy of a Government is not a legitimate consideration in this context. Those policies may rightly be examined at other times and in other contexts, but not here. In the present case no one can reasonably argue with the technical propriety of the credentials of the South African delegation. South Africa is not the only Member State whose Government is not chosen by free elections where all adults are entitled to vote.

167. In our view, we must not seek to change the membership regulations to convert this into an organization of like-minded Governments. Were we to apply that criterion we should cease to be a universal institution and would become very different indeed.

168. Those facts and a respect for the Charter have led past Presidents of the General Assembly to rule that decisions involving the non-acceptance or rejection of South African credentials constitute an expression of international outrage at the heinous policy of *apartheid*. But each of those Presidents has also ruled that such decisions do not serve to deprive South Africa of its fundamental rights of membership—rights which include the right to take its seat in the General Assembly, to speak, to raise questions and make proposals, and to vote.

169. Mr. President, we consider that your ruling fails to take into account that law of the Charter, the existing legal opinion and the consistent series of applicable precedents. For those reasons and pursuant

to rule 71, we must respectfully challenge your ruling. We request that, in accordance with rule 71, you put this challenge immediately to a vote.

170. I request that a recorded vote be taken.

171. The PRESIDENT (*interpretation from French*): The General Assembly has before it a challenge by the representative of the United States of America to the President's ruling. He has specifically invoked rule 71. I shall start by reading out rule 71:

“During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.”

172. I call on the representative of Senegal on a point of order.

173. Mr. FALL (Senegal) (*interpretation from French*): Mr. President, a little while ago you failed to take into account certain comments by the representative of the United States. He considers that the question before us falls within the framework of important questions as listed in Article 18 of the United Nations Charter. We challenge that interpretation. We consider that this is not a question that falls under Article 18 and that a two-thirds majority is not required for the vote on the President's ruling.

174. I see that the representative of the United States is shaking his head negatively. If my interpretation is not accurate, I apologize and withdraw my statement.

175. The PRESIDENT (*interpretation from French*): I believe that I can clarify the position by saying that the representative of the United States of America requested the strict application of rule 71 of the rules of procedure, and only rule 71.

176. In this case, a simple majority will be required for or against the challenge by the representative of the United States. The General Assembly will have to vote, for or against, on the challenge of the representative of the United States and I shall strictly adhere to rule 71 of the provisional rules of procedure.

177. I call on the representative of Liberia on a point of order.

178. Mrs. BROOKS-RANDOLPH (Liberia): This is with respect to the voting procedure. In order that there be no mistake, I ask that you, Mr. President, put it to the vote in this way: all who uphold the President's ruling on the question should vote in favour.

179. The PRESIDENT (*interpretation from French*): I call on the representative of Tunisia on a point of order.

180. Mr. DRISS (Tunisia) (*interpretation from French*): Mr. President, the representative of Liberia has made a proposal. I should like to support that proposal, that we vote on your ruling. I should like to avoid a negative vote for our friend the representative of the United States.

181. The PRESIDENT (*interpretation from French*): I call on the representative of the United Republic of Tanzania on a point of order.

182. Mr. SALIM (United Republic of Tanzania): Like my colleagues from Liberia and Tunisia, we also want to spare the United States and the United Kingdom the ordeal of having to vote No. We therefore request you, Mr. President, to put the motion as suggested by our colleague from Liberia. I have asked to speak only to request that a recorded vote be taken.

183. The PRESIDENT (*interpretation from French*): Actually, rule 71 is not lacking in clarity. The General Assembly is called upon to confirm or reject a representative's challenge. In the first case, the President's ruling is rendered null and void; in the second case, the President's ruling stands. Nevertheless, three delegations have asked to speak to interpret the application of rule 71 in a manner more friendly and more courteous to the delegation which challenged the ruling.

184. Shall I take it that the General Assembly has no objection to voting on the President's ruling, in support of or against it? If there is no objection, the proposal made by Liberia, supported by Tunisia and the United Republic of Tanzania, is upheld. A recorded vote has been requested.

185. I shall now put the ruling to the vote.

*A recorded vote was taken.*

*In favour:* Afghanistan, Albania, Algeria, Argentina, Bahrain, Bangladesh, Barbados, Bhutan, Botswana, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Central African Republic, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, India, Indonesia, Iraq, Ivory Coast, Jamaica, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mongolia, Morocco, Nepal, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia, Zaire, Zambia.

*Against:* Australia, Austria, Belgium, Canada, Costa Rica, Denmark, El Salvador, Finland, France, Germany (Federal Republic of), Iceland, Ireland, Israel, Italy, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, Fiji, Greece, Guatemala, Iran, Japan, Lesotho, Malawi, Mexico, Paraguay, Portugal, Spain, Turkey, Venezuela.

*The President's ruling is upheld by 91 votes to 22, with 19 abstentions.<sup>16</sup>*

186. The PRESIDENT (*interpretation from French*): A certain number of delegations have asked to speak in explanation of vote and I shall now call upon them for that purpose.

187. Mr. KARHILO (Finland): As an explanation of the vote of the Finnish delegation, I wish to state that the exclusion of the South African delegation from the General Assembly in this way is not, in our view, consistent with the stipulations of the United Nations Charter. This view in no way affects our well-known and consistent position on the policy of *apartheid* of South Africa, which we have resolutely rejected and continue to reject.

188. Mr. DE GUIRINGAUD (France) (*interpretation from French*): The French delegation is intervening once again in this discussion for the purpose of explaining its vote, and this time as spokesman for the nine countries making up the European Economic Community. We are bound to observe that the discussion today on the rights and privileges of the South African delegation takes us back to where we were a few weeks ago, and particularly to the vote that took place in this very Hall on the report of the Credentials Committee. The Assembly will recall that the nine countries of the Community were unable to accept the conclusions of that report, which rejected the credentials of the South African delegation, and that they explained the reasons for their position. It is for the same reasons that we are today obliged to dissociate ourselves from the decision that has just been taken. The circumstances that gave rise to that decision make it necessary for me to be very precise, and I would recall that the General Assembly has always maintained certain rules with regard to its functioning. We have not abolished rule 27 of the rules of procedure which for some years has been the subject of legal commentaries well known to all.

189. President Hambro, and after him President Malik, and then twice last year President Benites, relied on the opinion of the Legal Counsel given on 11 November 1970. That opinion was most clear-cut. It states quite precisely, in paragraph 6:

"Should the General Assembly, where there is no question of rival claimants, reject credentials satisfying the requirements of rule 27 for the purpose of excluding a Member State from participation in its meetings, this would have the effect of suspending a Member State from the exercise of rights and privileges of membership in a manner not foreseen by the Charter."<sup>6</sup>

190. I do not believe that the legal opinion which several Presidents of the General Assembly regarded as valid and upon which they relied could be different today, since the provisions of our rules of procedure relating to the credentials of delegations have not themselves been changed. The verification of credentials continues to be subject to formal criteria over which no political judgement, however legitimate it may be, can or should prevail.

191. At the risk of being repetitious, the nine member States of the European Economic Community will never cease to maintain that their position on the law and the procedure underlying our work has nothing to do with their feelings regarding the policy of *apartheid* and the other considerable offences of the South

African Government in Namibia and in Southern Rhodesia. Europe is a land of democracy, liberty and equality, sufficiently old to be able to find within itself all the reasons for unreservedly condemning the legal régime and the practices that still prevail in southern Africa. Our nine countries understand, furthermore, the impatience that has moved the United Nations to act when confronted by the perpetuation of so reprehensible a state of affairs. They are keenly aware of the very serious dispute between our Organization and a Government that pays so little heed to the aims and ideals of the international community. However, conscious of the fact that the problem discussed here is essentially that of the credentials of a delegation, the nine countries feel that they should emphasize no less strongly the risk that the United Nations would be incurring were it to cease, even as a matter of exception, to observe its own rules and its own previous decisions.

192. As I said a moment ago, we also have faith in the Charter of the United Nations. As recently as last year, we heard one of the oldest and best informed representatives in this Assembly proclaim, when he was occupying the very high office which you, Mr. President, now occupy, that he would never sacrifice a principle of a legal nature for reasons of political convenience. That line of conduct must remain valid. It was precisely that line of conduct that guided me when I said on 30 September last, on behalf of the countries of the European Economic Community, that

“... an organization which does not respect its own fundamental law becomes, by the same token, an organization that is vulnerable, and its members themselves run the risk of becoming the victims of that weakness.” [2248th meeting, para. 178.]

193. Those are the reasons why the delegations of the nine countries belonging to the Community, while respecting the motives behind the vote of the General Assembly confirming your interpretation, Sir, of the feeling of the majority, were unable to join that majority. It is our feeling, in fact, that that vote, which goes far beyond a political condemnation of the South African Government, runs the risk of giving rise to serious juridical consequences when applied to rules and regulations that govern the activities of the General Assembly and protect us all in the same way.

194. Mr. ELLIOTT (Canada): The Charter of the United Nations—in effect the constitution of our Organization—outlines a clear distribution of powers as between its principal organs. Certain questions, including those dealing with international peace and security and membership, fall within the purview of the Security Council. Article 6 of the Charter provides that the expulsion of a Member State may be effected only upon a recommendation of the Security Council to the General Assembly. Article 5 envisages that a Member may be suspended from the exercise of the rights and privileges of membership by the General Assembly, again upon a recommendation of the Security Council, but such action may be effected only following the adoption of preventive or enforcement action by the Security Council against the Member State concerned.

195. The ruling that has just been given has the effect of suspending a Member from the exercise of the most fundamental attributes of membership, namely,

the right to participate in debate and the right to participate in voting. Such action is not, in our view, within the terms of reference of the General Assembly, in accord with the provisions of the Charter.

196. The Canadian Government is vigorously opposed to the policy of *apartheid* practised by the South African Government and we deplore the fact that repeated admonitions of this Assembly to South Africa to modify that policy have gone unheeded. My delegation thus well understands the sense of frustration of those Members who believe that expulsion or suspension of South Africa from participation in this body could bring about changes of policy by that Government; but we have stated before, and must state here again, our firm conviction that the continuing exposure of South Africa to international opinion in this forum holds greater hope of gradually modifying South African policies than does a decision to isolate that Government and thus to insulate it from the repeated expression of our views.

197. Even more important for us today, however, is the fact that the Charter clearly makes distinctions as to which matters may be determined by the General Assembly and which by the Security Council. Indeed, it is for that reason that the Security Council is at present seized of the question of the relationship between South Africa and the United Nations. One course of action has been considered by that body; others remain open for consideration.

198. The ruling that has just been put forward is, in our view, thus clearly not in conformity with the Charter. We had therefore no alternative. My delegation found itself obliged to support the challenge to your ruling, Mr. President, on this matter.

199. Baron VON WECHMAR (Federal Republic of Germany): The representative of France has already explained the position of the member States of the European Economic Community. I can therefore confine myself to a few words on behalf of the Federal Republic of Germany.

200. There is no need to stress once more the position of my Government with regard to the policies of South Africa vis-à-vis *apartheid* and Southern Rhodesia, as well as its illegal presence in Namibia. In the opinion of my delegation the question we had to decide just now did not present a choice between a vote in favour of or against the policies of South Africa. What was at issue was not simply a question of our rules of procedure: it was a legal matter of the utmost importance, namely, the question of whether a Member can be suspended from the exercise of its rights and privileges of membership by procedures other than those set forth in Articles 5 and 6 of the Charter. That strictly legal question had to be answered in the negative.

201. As was expressed in an opinion of the Legal Counsel of the United Nations of 11 November 1970,<sup>6</sup> the exclusion of the delegation of a Member State from participating in the meetings of the General Assembly as a result of the rejection of its credentials would be tantamount to its suspension in a manner not foreseen by the Charter. In the opinion of my Government, the credentials of the South African delegation met the requirements of rule 27 of the rules of procedure; therefore there were and continue to be no

legal grounds for excluding the South African delegation from the General Assembly.

202. It has been suggested that the measure decided upon was justified on the grounds that it was limited and only temporary in character. It was implied that the issue of the admission of a delegation to the deliberations of the General Assembly could be separated from that of suspension or exclusion.

203. My delegation believes, however, that the considerations I have expressed apply also to such a limited exclusion of the South African delegation. Given the distribution of powers between the Security Council and the General Assembly under the Charter, there is no room for any action of the General Assembly that in practice amounts to a decision that, in accordance with the Charter, requires a previous recommendation of the Council.

204. My Government understands the frustration and the disappointment felt, especially by the African States, particularly in view of the South African Government's persistence in its outdated policy of racial segregation. However, these feelings must not lead us to ignore mandatory provisions of the Charter and rules of procedure that we have set up ourselves.

205. My Government therefore deplores the decision that has been taken. It may have consequences which none of us would wish to see.

206. If the United Nations wishes to maintain the moral authority of the Organization, it must first and foremost respect the rules under which the Organization works. We can only hope that this dangerous precedent will remain the only case of its kind, and that the Organization will find its way back to the strict observance of its rules.

207. Sir Laurence McINTYRE (Australia): Mr. President, I want to leave no doubt as to the reasons why my delegation has voted, with great regret, against your ruling on the subject of the South African credentials.

208. The attitude of the Australian Government towards the *apartheid* policies and laws of the South African Government, and towards its defiance of repeated United Nations demands in respect of Namibia and Southern Rhodesia, is well known. My Government's utter condemnation of them has been made absolutely clear in statements by members of successive Australian Governments and by Australian delegations to United Nations meetings on repeated occasions for many years past, and most recently by my delegation in the Security Council on 30 October last,<sup>17</sup> when we voted in favour of the draft resolution calling for the expulsion of South Africa from the United Nations.

209. On that same occasion, however, I recalled that my delegation had voted against the resolution adopted by this Assembly on 30 September last [*resolution 3206 (XXIX)*], which approved the recommendation of the Credentials Committee that the credentials of the South African delegation not be accepted. My delegation voted as it did then because the Australian Government has consistently taken the view over the years that the function of the Credentials Committee is limited to verification of the identity of the official Government signatory of a delegation's creden-

tials, and does not extend to questioning the right of a particular Government to issue credentials.

210. In short, we are prepared to accept the credentials of the South African delegation so long as South Africa remains legally a Member of the United Nations. The Charter provides alternative means for taking action against South Africa, and it is surely in the interest of the United Nations, and of all of us, that the provisions of the Charter be strictly observed.

211. It is thus on constitutional grounds, and with not the slightest intention of condoning the policies and actions of the South African Government, that my delegation has voted as it has.

212. Mr. TEMPLETON (New Zealand): Mr. President, my delegation voted against your ruling with great reluctance. I recall that my delegation supported the decision of the Assembly to ask the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights [*resolution 3207 (XXIX)*].

213. New Zealand sympathizes fully with the feelings of frustration among African delegations at South Africa's intransigent attitude and at the absence in the report of the Security Council [*A/9847*] of any positive recommendations. However, while my delegation understands the feelings of those delegations which asked you to rule that the South African delegation should not be permitted to participate in the meetings of this Assembly, we have little doubt that a decision to suspend South Africa from an important right of membership, in the absence of a recommendation by the Security Council, is unconstitutional.

214. We are confirmed in this view by the opinion of the former Legal Counsel on this point, supported by the rulings of several of your predecessors.

215. I would add, however, that New Zealand regards the debate in the Security Council and the vote of 10 members of the Council in favour of expulsion as a clear warning to South Africa that time is running out. It would be unwise of South Africa, in our view, to rely on the result of this year's Council vote being repeated on future occasions.

216. New Zealand, for its part, has had considerable sympathy in the past for the view that pressure could more effectively be exerted on South Africa within the United Nations than outside it. The South African Government cannot and should not expect, however, that we shall hold to this view much longer in the absence of early and radical change in South Africa's indefensible and abhorrent racial policies. The South African representative in the Security Council gave us promises of change. What we want are deeds.

217. Mr. UPADHYAY (Nepal): My delegation had voted in favour of the report of the Credentials Committee, which rejected the credentials of the South African delegation to the twenty-ninth session of the General Assembly. We adhere to our former stand and so we voted in favour of the ruling of the President of the General Assembly, on the clear understanding that the ruling is intended to prevent the South African delegation from participating in the deliberations of the twenty-ninth session of the Assembly.

218. My delegation would like to put on record its position that the ruling just made by the President should not be construed as the suspension or expulsion of South Africa from the United Nations or be linked with the question of such actions for which there are clear provisions in the Charter, which my delegation feels should be honoured.

219. Mr. MONTENEGRO MEDRANO (Nicaragua) (*interpretation from Spanish*): Mr. President, the delegation of Nicaragua deeply regrets having had to vote against your ruling, which was upheld by the General Assembly. We did so because in our opinion this decision sets a precedent that endangers the existence of our Organization and violates the principles of the United Nations Charter and the rules of procedure of the General Assembly. We continue to believe that the General Assembly is not competent to take a decision of this kind and that the procedure followed was mistaken. Similarly, we maintain that the Credentials Committee has no competence either to reject the credentials of the representatives of a State Member of the United Nations, since this involves an act of sovereignty which cannot be rejected by this Organization.

220. In spite of this, and of our present position on the matter, the delegation of Nicaragua has repeatedly condemned the discriminatory, racist policy of *apartheid* followed by South Africa and has consistently voted in favour of all the resolutions condemning South Africa adopted by the General Assembly.

221. Mr. WOLTE (Austria): The vote my delegation has just cast is based on legal considerations only in view of the clear provisions of the Charter regarding suspension from the exercise of the rights and privileges of membership. Our vote clearly cannot and does not in any way affect or reflect on the attitude of my Government towards the policy of *apartheid*. My delegation has defined its position repeatedly and clearly. It is one of firm rejection of the *apartheid*

policy as being in flagrant violation of our Charter and of the most fundamental principles of the Universal Declaration of Human Rights. At the same time, my delegation wishes to express the hope that today's vote will be interpreted by the South African Government as one more unequivocal expression of the deep concern of the international community, as a warning and as a signal addressed to Pretoria that its racial policy has no future in the world of today.

*The meeting rose at 7.15 p.m.*

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#### NOTES

<sup>1</sup> S/11525.

<sup>2</sup> *Official Records of the Security Council, Twenty-ninth Year, Supplement for October, November and December 1974, document S/11532.*

<sup>3</sup> *Ibid.*, Twenty-ninth Year, 1796th meeting, paras. 8-24.

<sup>4</sup> *Ibid.*, Supplement for October, November and December 1974, document S/11543.

<sup>5</sup> See *Official Records of the General Assembly, Twenty-fourth Session, Annexes, agenda item 106, document A/7154.*

<sup>6</sup> *Ibid.*, Twenty-fifth Session, Annexes, agenda item 3, document A/8160.

<sup>7</sup> *Advisory Opinion of 3 March 1950: I.C.J. Reports 1950, pp. 9 and 10.*

<sup>8</sup> *Official Records of the Security Council, Twenty-ninth Year, 1808th meeting, paras. 64-65.*

<sup>9</sup> *Ibid.*, paras. 67-80.

<sup>10</sup> *Ibid.*, 1800th meeting, paras. 48-141.

<sup>11</sup> *Ibid.*, para. 58.

<sup>12</sup> *Ibid.*, para. 102.

<sup>13</sup> *Ibid.*, para. 104.

<sup>14</sup> *Ibid.*, 1808th meeting, paras. 145-148.

<sup>15</sup> *Official Records of the General Assembly, Twenty-fifth Session, Plenary Meetings, 1901st meeting, para. 286.*

<sup>16</sup> The delegation of Uruguay subsequently informed the Secretariat that it wished to have its vote recorded as having been against the ruling of the President.

<sup>17</sup> *Official Records of the Security Council, Twenty-ninth Year, 1807th meeting, paras. 50-58.*