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**GENERAL  
 ASSEMBLY**



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President: Mr. Frederick H. BOLAND (Ireland).

#### Decision concerning procedure

*Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the Fifth and Sixth Committees.*

#### AGENDA ITEM 48

Financial reports and accounts, and reports of the Board of Auditors:

- (a) United Nations (for the financial year ended 31 December 1959);
- (b) United Nations Children's Fund (for the financial year ended 31 December 1959);
- (c) United Nations Relief and Works Agency for Palestine Refugees in the Near East (for the financial year ended 31 December 1959);
- (d) Voluntary funds administered by the United Nations High Commissioner for Refugees (for the financial year ended 31 December 1959);

(e) United Nations Korean Reconstruction Agency (liquidation and final accounts)

REPORT OF THE FIFTH COMMITTEE (A/4552)

#### AGENDA ITEM 51

Appointments to fill vacancies in the membership of subsidiary bodies of the General Assembly:

- (a) Advisory Committee on Administrative and Budgetary Questions;
- (b) Committee on Contributions;
- (c) Board of Auditors;
- (d) Investments Committee: confirmation of the appointment made by the Secretary-General;
- (e) United Nations Administrative Tribunal

REPORTS OF THE FIFTH COMMITTEE (A/4593, A/4567, A/4568, A/4548)

#### AGENDA ITEM 52

Scale of assessments for the apportionment of the expenses of the United Nations: report of the Committee on Contributions

REPORT OF THE FIFTH COMMITTEE (A/4640)

#### AGENDA ITEM 53

Audit reports relating to expenditure by specialized agencies of technical assistance funds allocated from the Special Account

REPORT OF THE FIFTH COMMITTEE (A/4602)

#### AGENDA ITEM 54

Administrative and budgetary co-ordination of the United Nations with the specialized agencies and with the International Atomic Energy Agency: report of the Advisory Committee on Administrative and Budgetary Questions

REPORT OF THE FIFTH COMMITTEE (A/4662)

#### AGENDA ITEM 55

Report of the Negotiating Committee for Extra-Budgetary Funds

REPORT OF THE FIFTH COMMITTEE (A/4657)

#### AGENDA ITEM 56

United Nations Library: report of the Secretary-General

REPORT OF THE FIFTH COMMITTEE (A/4630)

#### AGENDA ITEM 57

Construction of the United Nations building in Santiago, Chile: progress report by the Secretary-General

REPORT OF THE FIFTH COMMITTEE (A/4600)

#### AGENDA ITEM 58

Organization and work of the Secretariat: report of the Committee of Experts appointed under General Assembly

resolution 1446 (XIV) and provisional recommendations thereon by the Secretary-General

REPORT OF THE FIFTH COMMITTEE (A/4601)

AGENDA ITEM 59

Public information activities of the United Nations:  
report of the Secretary-General

REPORT OF THE FIFTH COMMITTEE (A/4641)

AGENDA ITEM 60

Personnel questions:

- (a) Geographical distribution of the staff of the Secretariat:  
report of the Secretary-General;
- (b) Proportion of fixed-term staff;
- (c) Other personnel questions

REPORT OF THE FIFTH COMMITTEE (A/4642)

AGENDA ITEM 62

Annual report of the United Nations Joint Staff Pension Board

REPORT OF THE FIFTH COMMITTEE (A/4620)

AGENDA ITEM 63

Comprehensive review of the United Nations Joint Staff Pension Fund

REPORT OF THE FIFTH COMMITTEE (A/4621)

AGENDA ITEM 64

Proposed amendments to certain provisions of the Pension Scheme Regulations of the International Court of Justice

REPORT OF THE FIFTH COMMITTEE (A/4646)

AGENDA ITEM 12

Report of the Economic and Social Council  
(chapter VII (section I only) and chapter IX)

REPORT OF THE FIFTH COMMITTEE (A/4664)

1. The PRESIDENT: If there is no objection, I would propose to ask the Rapporteur to present the various reports of the Fifth Committee in one intervention.
2. Mr. CUTTS (Australia), Rapporteur of the Fifth Committee: Of course I agree most willingly to introduce these reports in one intervention rather than fifteen. I have the honour to present to the Assembly the reports of the Fifth Committee contained in documents A/4552, A/4593, A/4567, A/4568, A/4548, A/4640, A/4602, A/4662, A/4657, A/4630, A/4600, A/4601, A/4641, A/4642, A/4620, A/4621, A/4646 and A/4664.
3. In respect of these items the Fifth Committee, after discussion, made proposals for final action by the Assembly. These proposals either take the form of draft resolutions which are appended to the reports, or they are otherwise specified in the texts of the reports. I would assume that, where no draft resolutions are proposed, it would be sufficient for the Assembly to approve the reports as submitted. I

believe that the reports as they stand are self-explanatory. I have them all before me now and I must admit that, in the mass, they are somewhat bulky. In any case, I think that there is no need for me to take up the Assembly's time with any discussion of their substance. Should there be any question regarding the subject matter during the Assembly's action on these reports, I shall, of course, be available to offer any explanations which may be considered necessary.

4. Thus, without further formality, I would commend to this Assembly for its favourable action the recommendations of the Fifth Committee in the reports which I have submitted.

5. The PRESIDENT: Does any representative wish to explain his vote on any of the recommendations of the Fifth Committee in connexion with these fifteen items?

6. Since no one wishes to explain his vote, the General Assembly will now proceed to a vote on these various proposals, beginning with the draft resolutions contained in the report on agenda item 48 [A/4552].

*Draft resolution I was adopted by 65 votes to none.*

7. The PRESIDENT: Draft resolution II was adopted unanimously by the Fifth Committee. If there is no objection I would propose to record it as being approved also by the General Assembly.

*Draft resolution II was adopted.*

8. The PRESIDENT: Draft resolution III was also adopted unanimously by the Fifth Committee. If there is no objection I would propose to record it as being approved also by the General Assembly.

*Draft resolution III was adopted.*

9. The PRESIDENT: Draft resolution IV was also adopted unanimously by the Fifth Committee. If there is no objection I would propose to record it as being approved also by the General Assembly.

*Draft resolution IV was adopted.*

*Draft resolution V was adopted by 57 votes to none, with 11 abstentions.*

10. The PRESIDENT: I would now invite the Assembly to turn its attention to agenda item 51, which relates to appointments to fill vacancies in the membership of subsidiary bodies of the General Assembly. The first report of the Fifth Committee under this item deals with the Advisory Committee on Administrative and Budgetary Questions. May I take it that the Assembly adopts the draft resolution in document A/4593?

*The draft resolution was adopted.*

11. The PRESIDENT: The next draft resolution refers to the membership of the Committee on Contributions and is contained in document A/4567. May I take it that the Assembly is prepared to adopt the draft resolution in this report?

*The draft resolution was adopted.*

12. The PRESIDENT: In connexion with the appointment to fill a vacancy in the membership of the Board of Auditors, the Assembly has before it in document A/4568 a draft resolution which was adopted by the Fifth Committee without objection. If I hear no objection I shall take it that the draft resolution is adopted also by the General Assembly.

*The draft resolution was adopted.*

13. The PRESIDENT: With regard to the membership of the United Nations Administrative Tribunal, the Assembly has before it the draft resolution recommended by the Fifth Committee in document A/4548.

*The draft resolution was adopted.*

14. The PRESIDENT: In connexion with agenda item 52, which deals with the scale of assessments for the apportionment of the expenses of the United Nations, the General Assembly has before it the draft resolution recommended by the Fifth Committee in document A/4640.

*The draft resolution was adopted by 78 votes to none.*

15. The PRESIDENT: The next report of the Fifth Committee is on agenda item 55, relating to the expenditure by specialized agencies of technical assistance funds allocated from the Special Account. The Committee has unanimously adopted the draft resolution which is to be found in document A/4602, and unless I hear any objection I shall declare that draft resolution adopted by the Assembly also.

*The draft resolution was adopted.*

16. The PRESIDENT: Agenda item 54 relates to administrative and budgetary co-ordination of the United Nations with the specialized agencies and with the International Atomic Energy Agency. In this connexion I propose to put to the vote draft resolution I contained in document A/4662.

*Draft resolution I was adopted by 78 votes to none.*

17. The PRESIDENT: Draft resolution II contained in document A/4662 was adopted by the Fifth Committee without objection. If I hear no objection I shall consider it adopted by the Assembly also.

*Draft resolution II was adopted.*

18. The PRESIDENT: The next report of the Fifth Committee is on agenda item 55, relating to the report of the Negotiating Committee for Extra-Budgetary Funds. I propose to put to the Assembly the two draft resolutions recommended by the Fifth Committee in document A/4657.

*Draft resolution A was adopted by 74 votes to none.*

*Draft resolution B was adopted by 77 votes to none.*

19. The PRESIDENT: We come now to agenda item 56; the Assembly has before it the report of the Fifth Committee on the United Nations Library (A/4630).

20. No specific action is requested of the Assembly except to take note of the Committee's decision as contained in paragraph 4 of its report.

21. In the absence of objection, the Assembly takes note of the decision contained in paragraph 4 of the report of the Fifth Committee.

*It was so decided.*

22. The PRESIDENT: We come next to the report of the Fifth Committee on agenda item 57, relating to the construction of the United Nations building in Santiago, Chile [A/4600].

23. In the absence of any objection, I shall consider that the Assembly takes note of the decisions contained in paragraphs 6 and 7 of the report of the Fifth Committee.

*It was so decided.*

24. The PRESIDENT: Agenda item 58 relates to the organization and work of the Secretariat, and the report of the Fifth Committee on this item is contained in document A/4601.

25. In the absence of objection, I shall consider the draft resolution recommended in the report of the Fifth Committee unanimously adopted.

*The draft resolution was adopted.*

26. The PRESIDENT: We come now to agenda item 59 concerning the public information activities of the United Nations. I shall put to the vote the draft resolution recommended in the report of the Fifth Committee [A/4641].

*The draft resolution was adopted by 73 votes to none, with 9 abstentions.*

27. The PRESIDENT: We come now to the report of the Fifth Committee on agenda item 60, relating to personnel questions [A/4642]. I shall put to the vote the recommendation contained in the report of the Fifth Committee.

*The recommendation was adopted by 82 votes to none.*

28. The PRESIDENT: We come now to item 62 of the agenda. The report of the Fifth Committee with respect to the annual report of the United Nations Joint Staff Pension Board is in document A/4620.

29. Since the draft resolution which is recommended in the report was adopted without objection in the Fifth Committee, I shall consider, in the absence of any comment or objection, that the recommendation in the report of the Fifth Committee is also adopted by the Assembly.

*It was so decided.*

30. The PRESIDENT: We come now to the report of the Fifth Committee on agenda item 63, relating to the comprehensive review of the United Nations Joint Staff Pension Fund [A/4621]. I shall put to the vote the draft resolution submitted by the Fifth Committee.

*The draft resolution was adopted by 83 votes to none.*

31. The PRESIDENT: We now turn to agenda item 64, concerning proposed amendments to certain provisions of the Pension Scheme Regulations of the International Court of Justice. The report of the Fifth Committee on this item is contained in document A/4646.

32. I shall now put to the vote the draft resolution recommended by the Fifth Committee.

*The draft resolution was adopted by 81 votes to none, with 1 abstention.*

33. The PRESIDENT: The last Fifth Committee report before the Assembly this afternoon relates to section I of chapter VII and chapter IX of the report of the Economic and Social Council.

34. The Assembly is merely requested to take note of the Fifth Committee's report [A/4664]. If I hear no objection, I shall take it that that is agreeable to the Assembly.

*It was so decided.*

## AGENDA ITEM 12

Report of the Economic and Social Council  
(chapter VII, section II (paragraph 645 only))

### REPORT OF THE SIXTH COMMITTEE (A/4655)

*The President presented the report of the Sixth Committee (A/4655).*

35. The PRESIDENT: The Sixth Committee has presented no draft resolution on this item. If I hear no objection, I shall take it that the Assembly wishes to take note of the Committee's report (A/4655).

*It was so decided.*

## AGENDA ITEM 12

Report of the Economic and Social Council (chapter I, chapter VII (except sections I, II (paragraph 645), IV and V) and chapter VIII)

36. The PRESIDENT: Members will recall that it was decided that chapter I, chapter VII (except sections I, IV, V and paragraph 645 of section II) and chapter VIII of the report of the Economic and Social Council should be allocated directly to a plenary meeting of the Assembly. If no member wishes to speak, I shall take it that the Assembly takes note of those parts of the report.

*It was so decided.*

## AGENDA ITEM 20

Admission of new Members to the United Nations

### SPECIAL REPORT OF THE SECURITY COUNCIL (A/4656)

37. The PRESIDENT: The special report of the Security Council [A/4656] on this item and the complete record of the Council's consideration of the question have been circulated to all Members of the General Assembly for their information. In this connexion the Assembly also has before it a draft resolution [A/L.335] submitted by Cameroun, the Central African Republic, Chad, the Congo (Brazzaville), Dahomey, Gabon, the Ivory Coast, Madagascar, the Niger, Senegal and the Upper Volta.

38. Does any representative wish to speak on the draft resolution?

39. Mr. GUIRMA (Upper Volta) (translated from French): The question of Mauritania was given a hearing in the First Committee. Faced with a problem which had all the semblance of a bogus problem, the United Nations chose the path of wisdom and of reason. After a discussion, which nearly cost it its unity and solidarity, Africa again regained the peace and tranquillity needed to cope with other graver and more worrying problems—I mean the Congo problem and the problem of Algeria.

40. On 28 November 1960 Mauritania became an independent, sovereign State. French colonial law came to an end with the birth of the Mauritanian nation. The world did not remain indifferent to this happy event. Great Powers, like the Union of Soviet Socialist Republics, warmly greeted and congratulated the young country. Many countries recognized Mauritania as an independent State and the Government of President Moktarould Daddah as the lawful Government

and legal emanation of the Mauritanian people. And among these countries we are glad to note the name of a brother Arab country which we hold in great esteem for its wisdom, its perspicacity and its spirit of co-operation, a country which even sponsored the admission of Mauritania to the United Nations. I must say here that we really did not deserve to be accused of speculating about the intentions of a Government when we congratulated it on what we anticipated.

41. Thus we had got as far as this point and we were expecting to see this country admitted to our membership for, judging by all appearances, all the other countries which had previously been admitted satisfied the same conditions that Mauritania does today. You can thus imagine our disappointment when, at the 911th meeting of the Security Council, we discovered an unexpected veto blocking the admission of poor Mauritania to the United Nations.

42. Yet it was not a feeling of anger or over-excitement that moved us. Rather we had a feeling that there had been some misunderstanding. The parties who felt they had to block the entry of Mauritania into the United Nations were adducing reasons which in our opinion had nothing whatsoever to do with the question of Mauritania. We do not think that there can be any doubt about that country being genuinely independent. Mauritania became independent as the result of agreements signed with the country of which she was a colony, namely, France. Before Mauritania, other countries had had occasion to become independent under similar circumstances. I am referring to the Federation of Mali before it was divided, and to Madagascar whose representatives are today sitting here with us, and to many other countries which have not had the misfortune to suffer from a veto.

43. We fail to understand, therefore, why Mauritania, which attained its independence in the same way as those countries and which in the First Committee was given full clearance, should have had its admission to the United Nations blocked by a veto which, far from being aimed at Mauritania, was apparently aimed at other people who have no connection with Mauritania.

44. That is the reason why we felt that the Security Council's decision should be reconsidered. We felt that it was unjust—because a certain sister country thought it had to raise the question here—we felt, I say, that it was not right to try to turn this problem into another factor in the cold war. Whatever incidents may have arisen between the various countries involved in this matter, we cannot see why the blows intended to fall on the Western world's back should be inflicted on Africa's. That is why we ask the Assembly to be good enough to reconsider this question and that is the reason why we have submitted a draft resolution [A/L.335] which asks the General Assembly to express itself in favour of holding a new meeting of the Security Council for the purpose of re-examining the question of Mauritania and dropping the idea cherished by certain Powers of holding countries as hostages for haggling deals that are no concern of ours. We want the Security Council to meet once more in order to give effect to what is implicit in the United Nations Charter, that is, to admit those countries which comply with the conditions that are indispensable and essential for their admission to the United Nations.

45. That is what the Upper Volta delegation and the other sponsors of this draft resolution wanted to say. We are, here and now, convinced that the General

Assembly will understand the basic merits of our draft resolution and will agree to make the recommendation for which we are asking.

46. The PRESIDENT: As the General Assembly is aware, the next item on the agenda for this afternoon also deals with Mauritania. It may be a convenience to delegations to be able to discuss item 79 together with the present item. The Chair will therefore regard it as quite in order if any representative, speaking on the present item, also refers in his speech to item 79, so that if possible we may conclude these two items on the basis of one discussion.

47. Mr. EL HAKIM (United Arab Republic): I will confine myself in this brief intervention to the draft resolution contained in document A/L.335. As this draft resolution has just been distributed, I would ask the President kindly to postpone the consideration of the draft resolution and the vote for twenty-four or forty-eight hours in order to give us sufficient time to examine it carefully.

48. The PRESIDENT: I now call on the representative of the Soviet Union on a point of order.

49. Mr. MOROZOV (Union of Soviet Socialist Republics) (translated from Russian): The Soviet Union delegation considers it necessary strongly to endorse the proposal just made by the representative of the United Arab Republic to postpone consideration of the question dealt with in the draft resolution contained in document A/L.335, which has just been submitted.

50. I believe it unnecessary to quote to such a highly qualified audience—and least of all to the President—rule 121 of the rules of procedure, which categorically states that no proposal, other than on matters of a procedural nature, may be discussed unless copies of it have been circulated to all delegations not later than the day preceding the meeting.

51. There is no need for me to show that the proposal in document A/L.335, whatever the reactions of particular delegations to it may be, is not a procedural matter.

52. Accordingly, inasmuch as this will be decided, the proposal that the President made just now, that the two items dealing with Mauritania should be discussed together, is obviously—and logically—ruled out.

53. I therefore ask the President to take this decision, which he is bound to take under rule 121, and I reserve the right, should some other decision be taken, to speak on any matters which may arise in this connexion.

54. The PRESIDENT: In view of the objections made, and in order to comply fully with the terms of rule 121 of the rules of procedure, the consideration of agenda item 20 will be deferred for a further twenty-four hours.

## AGENDA ITEM 79

### The problem of Mauritania

#### REPORT OF THE FIRST COMMITTEE (A/4594)

55. The PRESIDENT: In the absence of the Rapporteur of the First Committee, I present to the General Assembly the report of the Committee which is contained in document A/4594. I understand that there is a de-

sire to discuss this item, and I call first on the representative of Morocco.

56. Mr. BOUCETTA (Morocco) (translated from French): I got the impression that the President was linking up the two items on the agenda, namely, item 20 and item 79, so that they could be discussed together, in view of the close connection between the problems with which they deal. I would merely like, at this stage of the discussion and in view of the adjournment of the over-all discussion of the problem until tomorrow, to make use of my right of reply to the speaker who came to this rostrum in his capacity as a sponsor of a draft resolution which has been submitted to the Assembly.

57. I would like to draw the Assembly's attention to the fact that my country feels it is in duty bound to defend a legitimate right, to put an end to the partition of its territory, a partition which was imposed on it by force and violence and against the will of its people. I would also like to draw the Assembly's attention to the fact that, both in the First Committee and in the Security Council, which agreed to allow us to address its members, the issue at stake for us was to have the territorial integrity of our country respected in accordance with the provisions of the Charter of the United Nations and with international treaties and conventions. We had an opportunity of explaining all the facts of the case both in the First Committee and in the Security Council.

58. The idea was to prove—and it was an easy matter—that the country proposed for admission to the United Nations has as its territorial basis a part of our national Moroccan territory, since Mauritania has at all times formed an integral part of Morocco. That is why, both in the First Committee and in the Security Council, we requested that the provisions of the United Nations Charter and international conventions and agreements should be respected. Finally, I would like to say that, as regards this question, the discussion of which was ended in the First Committee without any special recommendation being made to the General Assembly, our objective was to reserve our right for the future. If, today, it is desired to reopen this question before the General Assembly, I formally support the request made by the United Arab Republic, and in view of the definite link which exists between the two questions, I request that the debate on the two questions be adjourned until tomorrow.

59. The PRESIDENT: Are there any further observations on this matter? It would seem to the Chair that the Assembly might now dispose of item 79 of the agenda because there is no recommendation or draft resolution before the Assembly; it merely takes note of the report of the First Committee. There will be an opportunity, when the discussion on item 20 is resumed, of dealing further with the question of Mauritania, but I would propose that for the moment the Assembly might dispose of item 79, which merely requires the Assembly to take note of the report of the First Committee [A/4594]. I take it that the Assembly takes note of this report.

*It was so decided.*

#### Decision concerning procedure

*Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the Fourth Committee.*

## AGENDA ITEM 43

## Question of South West Africa:

- (a) Report of the Committee on South West Africa;
- (b) Report on negotiations with the Government of the Union of South Africa in accordance with General Assembly resolution 1360 (XIV);
- (c) Election of three members of the Committee on South West Africa

## REPORTS OF THE FOURTH COMMITTEE (A/4643 AND ADD.1) AND OF THE FIFTH COMMITTEE (A/4665)

60. The PRESIDENT: Statements will be limited to explanations of vote. The first report of the Fourth Committee concerns the question of South West Africa.

61. I call on the representative of the Union of South Africa on a point of order.

62. Mr. FOURIE (Union of South Africa): I wish to raise a point of order in accordance with rule 76 of the rules of procedure and for the following reasons.

63. As Members of the Assembly will know, an application instituting contentious proceedings in the International Court of Justice relating to South West Africa has been filed against the Union Government by the Governments of Ethiopia and Liberia.

64. A perusal of this application will show that the draft resolutions which have now been recommended by the Fourth Committee to the General Assembly traverse the whole field contained in the application to the Court. In the circumstances, it is the view of the Union Government that the substance of the contentious proceedings is now sub judice and no resolutions on this subject should be considered by the General Assembly.

65. According to the sub judice rule, which is observed in most civilized countries, a court may not be hindered in any way in the impartial exercise of its functions while a case is pending before such a court. Public comment of any kind, including decisions or recommendations by public bodies, on issues pending in such a court are regarded as likely to impede or embarrass the court in the exercise of its judicial functions.

66. Some may argue that while this is a recognized principle in the system of individual countries, it is not necessarily applicable in international law. It will, however, be noted that Article 38, paragraph 1 c, of the Statute of the Court provides that the Court, in dealing with disputes in accordance with international law, shall apply inter alia: "the general principles of law recognized by civilized nations".

67. The late Judge Lauterpacht, in his book The Development of International Law by the International Court<sup>1/</sup> mentions the case of The Electricity Company of Sofia and Bulgaria, where the Permanent Court of International Justice invoked:

"...the principle universally accepted by international—and I repeat, "international"—tribunals ...to the effect that the parties to a case must

abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given and, in general, not allow any step to be taken which might aggravate or extend the dispute".<sup>2/</sup>

68. Judge Manley O. Hudson, a Judge of the Permanent Court of International Justice, also refers to the same principle in his quotations from the case of The Electricity Company of Sofia and Bulgaria.<sup>3/</sup>

69. Furthermore, other organs of the United Nations have observed the sub judice rule. When the Security Council discussed the Anglo-Iranian Oil Company case, it was guided by this principle. During the discussion of the matter in the Council, Sir Benegal Rau said:

"It may not therefore be wise or proper for us to pronounce on this question while substantially the same question is sub judice before the International Court of Justice."<sup>4/</sup>

At the 565th meeting of the Security Council, it was decided by a vote of 8 to 1 to adjourn the debate on the basis that the matter was sub judice.

70. Apart from the sub judice question there is another aspect referred to by an authority on international law which he describes as undesirable, namely, "duality of jurisdiction". He mentions the Ambatielos case in this regard, in which Judge Spiropoulos said that the tribunal which adjudicates on an issue before the Court must also adjudicate on the objection, and states that:

"a pronouncement on jurisdiction by one tribunal, when the merits fall to be heard subsequently by another, must risk prejudging the issue on the merits, and prejudicing, or at any rate affecting, the position of one or other party".<sup>5/</sup>

71. In his judgement on the preliminary objection in the same case, Judge Klaestad also dealt with the undesirable aspects of dual jurisdiction.

72. Those who favour consideration of the draft resolution recommended by the Fourth Committee may conceivably argue that, in accordance with Article 10 of the Charter of the United Nations, the General Assembly may discuss any matter within its scope. It should, however, be remembered that Article 10 is subject to certain other provisions—for instance, Article 12. This article provides, in paragraph 1:

"While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendations with regard to that dispute or situation unless the Security Council so requests."

<sup>2/</sup> Permanent Court of International Justice, Series A/B, No. 79, p. 199.

<sup>3/</sup> See Manley O. Hudson, The Permanent Court of International Justice, 1920-1942: A Treatise (New York, The Macmillan Company, 1943), p. 425.

<sup>4/</sup> Official Records of the Security Council, Sixth Year, 561st meeting, para. 75.

<sup>5/</sup> Sir Gerald Fitzmaurice, "The Law and Procedure of the International Court of Justice, 1951-4: Questions of Jurisdiction, Competence and Procedure", in The British Year Book of International Law, 1958 (London, Oxford University Press, 1959), p. 39.

<sup>1/</sup> Sir Hersch Lauterpacht, The Development of International Law by the International Court (London, Stevens and Sons Limited, 1958), pp. 167-8.

73. Clearly, the intention of the Charter is that the same principle must be applied in respect of a matter dealt with by the International Court of Justice, which, as far as legal matters are concerned, is the principal organ of the United Nations.

74. In these circumstances, it is the contention of the Union Government that if the General Assembly were to proceed with the consideration and adoption of the draft resolutions before it, it would be violating the sub judice rule. It is submitted, therefore, that the Assembly should not proceed any further with this matter. If it were to do so, it would create a precedent which may have far-reaching effects for the Assembly as a whole and for individual Members.

75. I therefore move, in accordance with rule 76 of the rules of procedure, the adjournment of the debate on this issue.

76. The PRESIDENT: The representative of the Union of South Africa has moved the adjournment of the consideration of this item under rule 76 of the rules of procedure. When the adjournment of the debate is moved under that rule, two speakers may speak in favour of the motion and two against.

77. Unless any Member of the Assembly desires to speak, however, I would propose to put to the vote at once the motion of the representative of the Union of South Africa.

78. I call on the representative of Nigeria.

79. Mr. SULE (Nigeria): The Assembly can understand why the representative of the Union of South Africa has come to ask us to adjourn the discussion on this particular matter. For some time now, that has been the case. We all know the attitude of the Union of South Africa towards the question of South West Africa, and this has been so for quite a long time in this General Assembly.

80. The United Nations, according to the rulings of the International Court of Justice, does have some obligations. It has obligations towards South West Africa and, therefore, this General Assembly has every right to discuss this particular question. I see no reason, therefore, why the representative of the Union of South Africa can claim that we should adjourn this question for any reason whatever.

81. Also, the legal action that he has referred to, which Liberia and Ethiopia have instituted against the Union of South Africa in the International Court of Justice, does not cover everything. We know that the United Nations has some obligations as regards political, social and economic matters in South West Africa, and therefore this General Assembly has every reason to discuss those matters—and it is those matters which we are called upon to discuss here in this Assembly.

82. A similar argument was raised in the Fourth Committee by the same representative of the Union of South Africa, but that argument was rejected by that Committee. I am asking this Assembly, therefore, to reject in the same manner the argument put forward by the representative of South Africa, for the same reasons as we rejected the same argument in the first instance.

83. He has talked about sub judice. Of course, we are told by international lawyers that the rule of sub judice is not as strong in international matters as it is in national law. In any case, if the South African

representative can give us an undertaking in this General Assembly that whatever action the International Court of Justice may decide upon will be binding and that his Government will accept it as such, we are quite prepared to consider the question. We put the same question to him in the Committee, but he refused to give us any undertaking. We asked him to state categorically whether his Government would be prepared to accept the ruling of the Court on this matter, and the representative of the Union of South Africa refused entirely to give any undertaking on this matter.

84. How can we, therefore, agree to allow the people in South West Africa to be suppressed and oppressed by South Africa, and why should we be stopped from discussing this particular question in order that we may redeem those people from the yoke of the imperialism of these people in South Africa? I am appealing to all representatives in this General Assembly to see with us and to reject the argument that has been put forward by the representative of the Union of South Africa. I beg them to agree that we should do everything possible in order to expedite the redemption of South West Africa and the eradication of the oppression and suppression by the Union of South Africa in that particular country.

85. If he claims, as he claims, that he is living in a civilized country, certainly he should allow those people to enjoy life and to have the same rights and privileges as he and other people are enjoying in his own country.

86. It is with this in view that I am asking the representatives in this Assembly to put aside all the argument that has been put forward by the representative of the Union of South Africa. I oppose this.

87. The PRESIDENT: If no other representative desires to speak, I propose to put to the vote the motion of the representative of the Union of South Africa for the adjournment of the debate on this item. A roll-call vote has been requested.

*A vote was taken by roll-call.*

*India, having been drawn by lot by the President, was called upon to vote first.*

In favour: Union of South Africa.

Against: India, Indonesia, Iran, Iraq, Ireland, Ivory Coast, Japan, Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Mexico, Morocco, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Federation of Malaya, Finland, Gabon, Ghana, Greece, Guinea, Haiti, Hungary, Iceland.

Abstaining: Italy, Luxembourg, Netherlands, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, France.



*The motion was rejected by 82 votes to 1, with 9 abstentions.*

88. The PRESIDENT: We will now proceed with the consideration of agenda item 43. I invite the Rapporteur of the Fourth Committee to present the Committee's report on this question.

89. Mr. BOEG (Denmark), Rapporteur of the Fourth Committee: It is my privilege, as Rapporteur of the Fourth Committee, to present to the General Assembly the Committee's report on the question of South West Africa [A/4643 and Add.1].

90. I shall not, at this very late stage of the Assembly's work, take up valuable time by going over the report in detail, but I shall limit myself to drawing attention to the recommendations of the Fourth Committee contained in paragraph 47 of document A/4643, which contains six draft resolutions adopted by the Fourth Committee.

91. I might mention first, against the background of the discussion which we have just heard, that one of these, draft resolution III, deals with the fact that the Governments of Ethiopia and Liberia, in accordance with a resolution passed on 13 June 1960 at the Second Conference of Independent African States, held at Addis Ababa, have, on 4 November 1960, filed concurrent applications in the International Court of Justice and have submitted this matter to the Court for adjudication in a contentious proceeding.

92. I also believe that draft resolution VI warrants special attention, in that this resolution invites the Committee on South West Africa to go on a fact-finding mission to the Territory. May I, in that connexion, refer particularly to operative paragraph 6 of this draft resolution because that paragraph requests the Committee on South West Africa to make a preliminary report on this matter at the resumed fifteenth session. Here again is a Fourth Committee item which is not completely covered or concluded, although it comes before the Assembly today.

93. Also in connexion with draft resolution VI, I should like to invite attention to document A/4665, containing the report of the Fifth Committee, from which it appears that the cost involved in this matter is estimated at \$46,000.

94. In conclusion, I would also like to invite attention to the report contained in document A/4643/Add.1, dealing with the question of the election of members to the Committee on South West Africa. As appears from this document, the terms of office of Indonesia, the United Arab Republic and Uruguay will expire at the end of 1960, and the Fourth Committee, by acclamation, recommended the re-election of those three members for a further period of three years. Consequently, the Committee recommends to the General Assembly that it reappoint Indonesia, the United Arab Republic and Uruguay as members of the Committee on South West Africa.

95. The PRESIDENT: Any representatives who wish to explain their votes on this item may refer, in their interventions, to any of the recommendations or proposals put forward by the Fourth Committee. Does any representative wish to explain his vote?

96. Since no one wishes to explain his vote, the Assembly will proceed to vote on the draft resolutions in document A/4643.

*Draft resolution I was adopted by 82 votes to none, with 5 abstentions.*

*Draft resolution II was adopted by 84 votes to none, with 7 abstentions.*

97. The PRESIDENT: A roll-call vote has been requested on draft resolution III.

*A vote was taken by roll-call.*

*Liberia, having been drawn by lot by the President, was called upon to vote first.*

In favour: Liberia, Libya, Madagascar, Mali, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Argentina, Austria, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Federation of Malaya, Finland, Gabon, Ghana, Greece, Guinea, Haiti, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Laos, Lebanon.

Against: None.

Abstaining: Luxembourg, Portugal, United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, France.

*Draft resolution III was adopted by 86 votes to none, with 6 abstentions.*

*Draft resolution IV was adopted by 89 votes to none.*

*Draft resolution V was adopted by 83 votes to none, with 7 abstentions.*

98. The PRESIDENT: In connexion with draft resolution VI, there is before the Assembly for information purposes a report of the Fifth Committee relating to the financial implications of this draft resolution. That report, to which the Rapporteur referred when he was presenting the report of the Fourth Committee on this item, is contained in document A/4665. I propose now to put draft resolution VI to the vote. A vote by roll call has been requested.

99. I call upon the representative of Nigeria on a point of order.

100. Mr. SULE (Nigeria): I should like to ask for a separate roll-call vote on operative paragraph 3 of draft resolution VI, which is a very important paragraph.

101. The PRESIDENT: If there is no objection I shall, in response to the request of the representative of Nigeria, put to the vote separately, by roll-call, operative paragraph 3 of draft resolution VI.

*A vote was taken by roll-call.*

*The Federation of Malaya, having been drawn by lot by the President, was called upon to vote first.*

In favour: Federation of Malaya, Finland, France, Gabon, Ghana, Greece, Guinea, Haiti, Hungary, Iceland,

India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Mali, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia.

Against: None.

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

*The paragraph was adopted by 90 votes to none, with 3 abstentions.*

102. The PRESIDENT: The Assembly will now vote on draft resolution VI as a whole.

*A vote was taken by roll-call.*

*Ceylon, having been drawn by lot by the President, was called upon to vote first.*

In favour: Ceylon, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Leopoldville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Federation of Malaya, Gabon, Ghana, Guinea, Haiti, Hungary, Iceland, India, Indonesia, Iran, Iraq, Israel, Italy, Ivory Coast, Jordan, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Mali, Mexico, Morocco, Nepal, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Central African Republic.

Against: None.

Abstaining: China, Finland, France, Greece, Ireland, Japan, Netherlands, New Zealand, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Canada.

*Draft resolution VI as a whole was adopted by 78 votes to none, with 15 abstentions.*<sup>6/</sup>

103. The PRESIDENT: The last recommendation of the Fourth Committee under this item is contained in document A/4643/Add.1, in which the Fourth Committee recommends to the General Assembly that it should reappoint Indonesia, the United Arab Republic and Uruguay as members of the Committee on South West Africa as from 1 January 1961.

104. In the absence of any comment or objection, I shall take it that the Assembly approves this recommendation.

*It was so decided.*

## AGENDA ITEM 44

### Question of the future of Western Samoa

#### REPORT OF THE FOURTH COMMITTEE (A/4663)

*Mr. Boeg (Denmark), Rapporteur of the Fourth Committee, presented the report of that Committee (A/4663), and then spoke as follows:*

105. Mr. BOEG (Denmark), Rapporteur of the Fourth Committee: As members of the Assembly will have noticed, this is a very brief and straightforward report containing only one draft resolution, under which the General Assembly would recommend that a plebiscite under United Nations supervision should take place in Western Samoa in the month of May 1961. Operative paragraph 2 of the draft resolution outlines the questions to be put to the people in this plebiscite. Under operative paragraph 4 of the draft resolution, a United Nations Plebiscite Commissioner would be appointed.

106. In concluding these very brief remarks, I should like also to draw special attention to paragraph 10 of the report, which I believe is another crucial paragraph and in which Members of the Assembly will notice that the Fourth Committee, by acclamation and upon nomination made by the representative of Argentina, has recommended the appointment of Mr. Najmuddine Rifai of the United Arab Republic as United Nations Plebiscite Commissioner for Western Samoa.

107. The PRESIDENT: Does any representative wish to explain his vote? I call upon the representative of the USSR.

108. Mr. KUCHAVA (Union of Soviet Socialist Republics) (translated from Russian): The Soviet delegation considers it necessary to make the following observations on the draft resolution on the question of the future of Western Samoa which has been submitted for consideration and approval by the plenary General Assembly.

109. The second preambular paragraph of the draft resolution proposes that the General Assembly should take note not only of the Constitution adopted by the Constitutional Convention of Western Samoa, but also all the resolutions adopted by that Convention. This paragraph which at first sight might seem to have purely technical significance—as one that merely notes the facts—assumes particular importance in relation to the plans for the future of Western Samoa that have been proclaimed by the Administering Authority, that is, by the New Zealand Government. We deem it essential to draw the General Assembly's attention to the fact that under various pretexts and in various forms of words the Administering Authority is trying to win General Assembly approval for its plan to conclude a so-called "treaty of friendship" with Western Samoa. As you are aware, in its memorandum of 19 March 1959, the Government of New Zealand provided, at that early date, that the so-called "treaty of friendship" would transfer to New Zealand the conduct of such important matters as the foreign relations and the defence of Western Samoa. These plans were severely criticized when this question was discussed in the

<sup>6/</sup> The delegation of Guatemala, which was absent when the vote was taken, subsequently informed the President that it would have voted in favour of the draft resolution (see paragraph 164 below).

Trusteeship Council. Now, apparently, the Administering Authority, realizing how unpopular such a direct imposition of a "treaty of friendship" upon the Samoan people would be, has changed its tactics slightly: in the first place, it declares that such a treaty would be concluded not before but after the proclamation of independence; in the second place, it now prefers to speak of affording Western Samoa "assistance" in the conduct of its foreign affairs. The Administering Authority is endeavouring to show that the initiative in this matter was taken by the Samoan Government.

110. We consider it essential, however, to emphasize once again that the question of concluding any treaties or agreements whatsoever must be decided by the Samoan Government itself, the Parliament of Western Samoa, after Samoa becomes an independent, sovereign State. Until Samoan independence is proclaimed, there can be no question of the General Assembly or any other international organ taking note of or approving any intentions or plans that envisage restricting the sovereignty of the future independent State of Western Samoa.

111. The Soviet delegation considers that the General Assembly should devote particular attention to ensuring that the independence of Western Samoa is complete and not restricted by any conditions, and that the Constitution and all legislative instruments should provide for complete sovereignty and independence for the new State, without any omissions or restrictions.

112. We cannot fail to point out that during the discussion on the Declaration on the granting of independence to colonial countries and peoples, many representatives of African and Asian countries stressed the important fact that the independence to be granted must be complete and not restricted by any conditions and that steps must be taken to prevent the granting of conditional, and therefore fictitious, independence. This important principle was quite properly emphasized in their statements by the representatives of India, Ghana, Guinea, Mali, the United Arab Republic and many other representatives of African and Asian countries and was given expression in the Declaration on the granting of independence to colonial countries and peoples [General Assembly resolution 1514 (XV)]. Paragraph 5 of that Declaration reads as follows:

"Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the people of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom."

113. Accordingly, the paragraph in question of the draft resolution submitted to us is in direct contradiction with this Declaration adopted by the General Assembly on 14 December.

114. The situation is, of course, not altered one bit by the fact that we are here dealing not with a large territory but with a small country, not with an African territory but with islands in the Pacific Ocean.

115. The Soviet delegation considers that if the General Assembly were to agree even to take note of any decisions or plans regarding the conclusion of

treaties which would in the future restrict the independence of a sovereign State, that would among other things constitute a dangerous precedent which might be exploited by the colonialists to the detriment of the independence and sovereignty of other Non-Self-Governing and Trust Territories, including African countries.

116. The General Assembly should therefore not take note of the resolutions adopted by the Constitutional Convention of Western Samoa, since those resolutions also include a recommendation for the conclusion of a "treaty of friendship" between Western Samoa and New Zealand. We wish to stress once again that the question of concluding any agreements whatever must be freely considered and decided by the independent State of Western Samoa, and not by any organs established and functioning under conditions of foreign domination over a Trust Territory, at a time when that Territory had not yet attained independence. We cannot agree to allow any organ whatever at the present time to restrict the sovereignty and independence of the future State.

117. For those reasons the Soviet delegation proposes that the words "and the resolutions adopted by that Convention" in the second preambular paragraph of the draft resolution should be put to the vote separately. We call upon the sponsors of the draft resolution, the representatives of the other African and Asian countries, and all other representatives who are anxious that Western Samoa should be granted genuine and completely unrestricted independence, to vote for the deletion of these words from the draft resolution.

118. This is essential in order that there should be no doubt as to the General Assembly's intention to grant Western Samoa true independence, so that the Administering Authority should not be able in the future to cite this portion of the draft resolution with a view to carrying out its plan for the conclusion of a so-called "treaty of friendship" with Western Samoa.

119. If these words are deleted, the Soviet delegation, which abstained from voting on this draft resolution in the Fourth Committee, will be able to support it, since the draft resolution as a whole is aimed at the attainment of independence by the Trust Territory of Western Samoa on 1 January 1962.

120. The second point we wish to make is this. The Soviet delegation considers it desirable to amend somewhat the wording of the second question which it is proposed to put to the population during the plebiscite in May 1961. In our view, the reference in question 2 to the Constitution that has now been drafted should be deleted, since the question of approving or not approving the Constitution is the subject of question 1. We therefore think that question 2 should be confined to asking whether the inhabitants of Western Samoa agree that on 1 January 1962 Western Samoa should become an independent State.

121. The Samoan representatives themselves, in fact, proposed that only that one question should be asked in the plebiscite; it was during the discussion in the Fourth Committee at this session of the General Assembly that the question arose of submitting the draft Constitution as well for approval by the inhabitants. The present wording of question 2 is unsatisfactory since, if any inhabitant of Western Samoa disapproves of the Constitution now adopted by the Constitutional

Convention for any reason, he will be obliged to vote "No" not only to question 1 but also to question 2, i.e. to the proposal to grant independence to his State, inasmuch as question 2 envisages independence only on the basis of that Constitution. The lack of logic in formulating the question in this way is obvious. We accordingly propose that the words "on the basis of that Constitution" in question 2 should be put to the vote separately. The Soviet delegation will vote in favour of deleting these words from the present text.

122. In conclusion, the Soviet delegation would like once again to draw the attention of all delegations to our first observation concerning the Administering Authority's plan to conclude a so-called "treaty of friendship" with Western Samoa. We consider this a question of principle and the voting in the General Assembly on our proposal to delete certain words from the second preambular paragraph of the draft resolution that has been submitted will determine how the Soviet delegation will vote on the draft resolution as a whole.

*Mr. Illueca (Panama), Vice-President, took the Chair.*

123. U TIN MAUNG (Burma): My delegation would like briefly to explain how it will vote on the draft resolution submitted by the Fourth Committee in document A/4663. As we did in the Fourth Committee, my delegation will in this plenary meeting vote for the first amendment that has been put forward, which would delete the words "and the resolutions adopted by that Convention" from the second preambular paragraph of the draft resolution.

124. We voted for the deletion of these words in the Fourth Committee because we felt that the General Assembly was in no position either to approve or to disapprove the resolutions adopted by the Constitutional Convention. As regards the resolutions adopted by the Constitutional Convention, we think that the one relating to external relations, particularly paragraph 5, prejudices the position of the Government of the independent State of Western Samoa.

125. In the Trusteeship Council, members had clearly expressed the view that Western Samoa could not and should not sign a treaty of friendship—or for that matter any treaty—with New Zealand until it had become a fully and truly sovereign State. It would appear from paragraph 5 of the resolution on external relations adopted by the Constitutional Convention that that Convention, which was established, as we all know, on the basis of a very limited franchise, had committed the future Government of an independent Western Samoa to a policy of far-reaching importance and consequences, a policy which the people of Western Samoa may not approve or sanction.

126. The Constitutional Convention, as I stated earlier, was the outcome of a limited franchise, and although the General Assembly is perfectly entitled to ascertain the wishes of the people of Western Samoa with regard to the Constitution, my delegation does not think that the United Nations should pronounce itself at all on the scope and nature of the resolutions adopted by the Constitutional Convention. By taking note, the General Assembly has taken cognizance of the arrangements which are being made even now between a dependent territory and a sovereign State in regard to the conduct and control of external relations which an independent Western Samoa would enter into with other sovereign States.

127. Although no treaty of friendship has yet been signed between New Zealand and Western Samoa, the effect of the retention of the words "and the resolutions adopted by that Convention" in the second preambular paragraph would be quite considerable. The people of Western Samoa, whose freely expressed wishes the United Nations has not ascertained, might get the impression that the Administering Authority, in this case New Zealand, was perfectly within its rights in imposing a treaty of friendship upon them.

128. There is one great danger which Members of the General Assembly might do well to ponder. The retention of, or the General Assembly's approval of, the words I have referred to in the second preambular paragraph would encourage the administering Powers to inject into General Assembly resolutions elements of the kind I have referred to earlier.

129. External relations, defence and monetary matters, which are always reserved for the Administering Authorities, will be subjected to long and tedious negotiations between the Administering Authorities and the Trust Territories even after their independence, for we can foresee that the so-called pre-independence arrangements will be made or imposed upon the peoples of the dependent territories as a price for continued financial, economic and technical assistance from the metropolitan Powers.

130. We still have a few Trust Territories to dispose of, and we should clearly reflect upon the consequences that any draft resolution or resolutions would have on these people. In the Fourth Committee my delegation voted for question 1 of operative paragraph 2 because we felt that the Constitutional Convention was not a constituent assembly directly elected by the people on the basis of universal adult suffrage, and I am quite sure that a great majority of the people of Western Samoa would know very little about the provisions of the new Constitution adopted on 28 October 1960.

131. In the Fourth Committee, the Byelorussian amendment which would have deleted the words "on the basis of that Constitution" was unfortunately rejected. My delegation voted for that amendment because we considered that the retention of these words, "on the basis of that Constitution", in question 2 of operative paragraph 2 would be quite unwise.

132. I think that it would be quite improper for the General Assembly to force the people of Western Samoa to pronounce themselves on independence based on the Constitution adopted by the Constitutional Convention, as they are now asked to do in the plebiscite.

133. While it may be taken as a foregone conclusion that the people of Western Samoa will not disagree that on 1 January 1962, Western Samoa should become an independent State, it may well appear to them as posed in that plebiscite that the Constitution adopted on 28 October 1960 is being forced down their throats, so to speak, and it is most likely that, like children, they will have to swallow the castor oil because their mother has promised that Santa Claus will mysteriously come down the chimney to leave a stocking full of gifts of toys near their beds.

134. As I have already suggested, we would ask for separate votes to be taken on the words "and the resolutions adopted by that Convention" in the second preambular paragraph and on the words "on the basis of that Constitution" in question 2 of operative paragraph 2 of the draft resolution.

135. My delegation's vote on the draft resolution will be in accordance with the explanation I have given.

*Mr. Boland (Ireland) resumed the Chair.*

136. Mr. SHANAHAN (New Zealand): I regret that it should be necessary for our delegation to oppose the proposal which has been made first by the representative of the Soviet Union, supported by the representative of Burma, for a vote by division upon the draft resolution contained in document A/4663. I do oppose it with some degree of reluctance, but I do so because this resolution is in terms a very delicately worked out compromise, a compromise which was developed after discussions between some of the sponsors of this draft resolution and the Prime Minister of Western Samoa who was here for the period of discussions in the Fourth Committee and who left New York only last night to return to his own country. The Prime Minister, I should point out to the Assembly, was initially opposed to the idea that any referendum or plebiscite should be conducted in the Territory. His reasons for this opposition I do not propose to enter into in detail, but, in brief, he believed that there was such a manifest desire on the part of the people of the Territory to be fully sovereign and independent upon the termination of the trusteeship that it was unnecessary and indeed otiose to put that particular question to them. But, on the other hand, he recognized the force of the general United Nations position in this matter and decided to meet it by agreeing that a referendum should be taken, and in particular to the two questions which have been formulated for this process.

137. I may add that the resolution has in fact been communicated to the Government of Western Samoa, which I understand is very happy with the compromise which has been reached by the Committee, a compromise which we hope will be accepted by the General Assembly at this session.

138. I must confess to a certain surprise at some of the arguments which were advanced this afternoon in favour of division, particularly by the representative of the Soviet Union. I think that there is perhaps a sort of misunderstanding as to the true proportions of the reference which appears in the second preambular paragraph, in the phrase "and the resolutions adopted by that Convention", that is, the Constitutional Convention in Western Samoa.

139. These resolutions are only recommendations to the Samoan authorities. Most of these recommendations will be of practical consequence only when Western Samoa becomes independent. But they are important because they are illustrative of the process of development and independence which is proceeding in Western Samoa, and we thought it proper, on the instance of the Samoan authorities particularly, to bring them to the notice of the United Nations. The resolutions do in fact refer to one or two points of particular interest and importance to Samoa, points which have been of special interest to the Trusteeship Council and to the Fourth Committee in its previous consideration of questions affecting Samoa. The two in particular that I have in mind are the question of land titles and the rather technical one related to the question of the electoral roll. It seemed entirely proper that these resolutions should be submitted to the General Assembly.

140. I think that it is a proper compliment that this Assembly should pay to the people of Western Samoa

by making this reference, which is not in an operative paragraph but in the preambular section of the resolution, to the decision taken by them.

141. I was surprised at the statement made by the representative of the Soviet Union when he talked about "various pretexts", if I understood him correctly, on the part of New Zealand. He said this with particular reference to the suggestion that had been made for a treaty of friendship between Western Samoa and New Zealand. It is a matter of record that, in the earlier thinking of the people of Samoa, they had felt that it would be appropriate, given their relatively small size and given certain traditions associated with other territories in that part of the world, to have a treaty whereby New Zealand would, upon their attaining self-government or independence, have borne a special responsibility for defence and for external affairs.

142. This was an idea, one of a number of ideas about the eventual constitutional development of the Territory, which was advanced by my former Prime Minister in discussions which were held in Wellington in early 1959 before the Visiting Mission, which consisted of representatives of India, France, the United Kingdom and the United Arab Republic, proceeded to the Territory. The Visiting Mission did comment upon the desire of the Samoans to have a treaty of friendship of this kind. New Zealand expressed no views on that question until this session of the General Assembly.

143. At that time we made it clear that it was the wish of the Samoans, a wish which would be fully respected by New Zealand, that the Samoan people should enjoy full, complete and unconditional independence and that that wish precludes the negotiation of any treaty of friendship between New Zealand and Western Samoa before independence. It will have been observed that, in the recommendation in question in the document, any question of a treaty of friendship is one for consideration after independence, to be negotiated only then, by the new and independent Government of Western Samoa; secondly, that any such treaty or arrangement, the main purpose of which will be to give form and effect to the relations between the two Governments, particularly in respect of technical and administrative and other forms of assistance to be provided by New Zealand—it will be limited to that—will be on the basis of the fully sovereign independence of Western Samoa.

144. I am indeed surprised that the representative of the Soviet Union should have suggested that this wording was something lax and casual, but that had it been Africa or some other part of the world there would be grave objections. Is this Assembly entitled to assume that the sponsors of this draft resolution, which included the Federation of Malaya, Ghana, India, Iraq, the Sudan, the United Arab Republic, Iran and Nigeria, would have been willing to compromise on principle or to accept anything less than full and unconditional independence for Western Samoa?

145. So much for the first point, that is, the reference in the preambular paragraph upon which the Soviet and the Burmese representatives requested a separate vote. I would just like to repeat that these words do have the importance which I mentioned, they do have a proper relevance in that section of the resolution, and they should, for the reasons of courtesy to the people of Samoa, which I indicated, be maintained.

They are not of the operative part, but they do, nonetheless, have a certain important persuasive effect.

146. Now to the second proposal, which is in respect of the question which is to be put in the plebiscite. It is proposed that we delete from question 2 the words "on the basis of that Constitution". We would be opposed to this for the reason that this is an important element of the compromise which was worked out by the nucleus of the sponsors and the Prime Minister of Western Samoa who, I repeat, did not consider that any referendum was necessary, but considered that if there is to be a referendum, then there is an obvious and logically clear connexion between the answer to the question of independence and the constitution which has been worked out. I am sure that this Assembly would not wish to see the illogical and unhappy outcome that we should ask a question which, without this reference to the constitution, might result in a situation in which there is independence, but no constitution.

147. I hope for the reasons given the Assembly will understand the importance of maintaining the integrity of this resolution, which is, as I repeat, a delicate compromise, accepted by the Prime Minister of Western Samoa, in the first instance with some reluctance, but with a desire to co-operate fully with this General Assembly. As it has now been accepted by the Government of Western Samoa, I hope that we will be able to maintain it.

148. That is why I find myself reluctantly in the position of having to oppose the motion made by the representatives of the Soviet Union and of Burma under rule 91 of our rules of procedure to vote separately on these parts of the draft resolution. I hope that the Assembly will support the delegation of New Zealand in opposing the motion for division.

149. Miss BROOKS (Liberia): The representative of Liberia in the Fourth Committee supported the amendments which would delete the words "and the resolutions adopted by that Convention" in the second preambular paragraph, and the words "on the basis of that Constitution", in question 2 of operative paragraph 2.

150. I do not care to go into the arguments that were set forth to support our position in the Fourth Committee. I would simply say that the delegation of Liberia does not want to subscribe to a principle which in the future might be used to apply to a more objectionable case. We have to think of the future in developing here in this Assembly a principle of rule which must apply to subsequent cases. We do not want the peoples in dependent territories to feel that as a precondition to their independence they must agree in advance to certain treaties or conventions before their independence is won.

151. The PRESIDENT: If there are no further speakers on the draft resolution the Assembly will proceed to vote on it. The proposal has been made that two phrases in this draft resolution should be voted on separately. Objection has been taken to that motion, under rule 91 of the rules of procedure.

152. Unless anybody wishes to speak for or against the motion at this stage, I propose to put it to the vote straight away. I therefore put to the vote the motion submitted by the representative of the Soviet Union, supported by the representative of Burma, that separate votes should be taken on the two phrases mentioned by the representative of the Soviet Union, that is to say, the words "and the resolutions adopted

by that Convention" in the second preambular paragraph, and the words "on the basis of that Constitution" in operative paragraph 2.

*The motion was rejected by 45 votes to 20, with 18 abstentions.*

153. The PRESIDENT: The Assembly will now vote on the draft resolution submitted by the Fourth Committee in document A/4663, as a whole.

*The draft resolution was adopted by 81 votes to none, with 10 abstentions.*

154. The PRESIDENT: Having adopted this resolution, the Assembly must now proceed to appoint a United Nations Plebiscite Commissioner, as provided in operative paragraph 4. The Fourth Committee, in paragraph 10 of its report, mentions that it decided, by acclamation, to recommend the appointment of Mr. Najmudine Rifai of the United Arab Republic to be the United Nations Plebiscite Commissioner for Western Samoa.

155. If I hear no objection, I shall consider that the Assembly approves this recommendation.

*The Assembly decided to appoint Mr. Najmudine Rifai (United Arab Republic) as United Nations Plebiscite Commissioner for Western Samoa.*

156. The PRESIDENT: I would like to congratulate Mr. Rifai on his appointment and on the confidence which the General Assembly has placed in him. I cordially wish him every success in his work. I now give the floor to Mr. Rifai.

157. Mr. RIFAI (United Arab Republic): I thank the President very much for the kind words with which he has announced my appointment. It is difficult for me to find, indeed, the right words to express my thanks and to say how grateful I am at the high confidence which has been placed in me by the General Assembly in electing me to the office of United Nations Plebiscite Commissioner for Western Samoa.

158. I take this expression of unanimous confidence by the Assembly as a high tribute to the role which my country has always played in fostering the cause of independence of all dependent peoples around the world and as a recognition of its contribution towards the advancement of their legitimate interests and their national aspirations.

159. There is one thing more that I can add in this connexion, and that is that I shall spare no effort in discharging the duty for which you have chosen me in a manner that will justify your great confidence.

160. I already know Western Samoa because I had an opportunity to visit this beautiful country in 1953 when I was a member of the United Nations Visiting Mission to Trust Territories in the Pacific. On that occasion I learned to admire the high qualities of its people and, indeed, fell victim to their immense charm and friendly disposition. I must say that until this day I carry the sweetest memories from that visit. This feeling, I am sure, will be of great value and assistance to me in approaching the important task of supervising, on behalf of the United Nations, the forthcoming plebiscite in this Trust Territory, because it gives me the confidence and the assurance that I shall receive the unstinted co-operation and understanding which are indispensable to the proper implementation of the General Assembly's resolution.

161. Before I conclude, I should like to thank all my colleagues, and particularly those who have supported me with great enthusiasm and with their words in the Fourth Committee. I wish to tell them how grateful I am for the sincerity of their support.

162. I also wish to thank the Administering Authority, New Zealand, and to express also my thanks to its representative in the Fourth Committee and its representative here, Mr. Shanahan. I wish to thank Mr. Paul Edmonds, the representative of New Zealand in the Fourth Committee, for the kind words he said about me in welcoming, on behalf of his country, my selection for this post.

163. I am looking forward, indeed, to the assistance of the New Zealand Government and to its co-operation in carrying out the important task for which I have been chosen today.

164. The PRESIDENT: I might perhaps mention at this point that I have been asked by the delegation of Guatemala to announce that if they had been here at the time they would have voted for the adoption of draft resolution VI in document A/4643 on the item "Question of South West Africa".

#### Decision concerning procedure

*Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the Third Committee.*

#### AGENDA ITEM 36

##### Draft Declaration on Freedom of Information

REPORT OF THE THIRD COMMITTEE (A/4666)

#### AGENDA ITEM 82

##### Draft Declaration on the Right of Asylum

REPORT OF THE THIRD COMMITTEE (A/4667)

#### AGENDA ITEM 76

Measures designed to promote among youth the ideas of peace, mutual respect and understanding between peoples

REPORT OF THE THIRD COMMITTEE (A/4668)

*Miss Hampton (New Zealand), Rapporteur of the Third Committee, presented the reports of that Committee (A/4666, A/4667 and A/4668) and then spoke as follows:*

165. Miss HAMP'TON (New Zealand), Rapporteur of the Third Committee: Owing to the substantial agenda allocated to the Third Committee this year and to the number of meetings taken up by earlier items, it was not possible for the Committee to consider either of the draft declarations in substance. The draft resolutions submitted on these two items, therefore, follow from the brief procedural discussion given these

subjects and propose that each item should be considered at the sixteenth session of the General Assembly.

166. In the Committee many delegations expressed appreciation of the action of the delegation of Romania, on behalf of the Romanian Government, in submitting agenda item 76. There was agreement that it was indeed desirable that youth should be brought up in a spirit of peace, mutual respect and understanding between peoples. Various means of advancing these objectives were discussed along with measures which the United Nations and related agencies, Member States and international and national governmental agencies, could pursue to assist in encouraging this spirit. The draft resolution now submitted to the Assembly includes references to such measures and, *inter alia*, requests the Economic and Social Council to report to the General Assembly the results of its consideration of this matter.

167. I have the honour to commend to the General Assembly the draft resolutions submitted by the Third Committee in these three reports. The two draft resolutions relating to the draft declarations were approved unanimously in the Committee, and the draft resolution concerning measures designed to promote among youth the ideas of peace, mutual respect and understanding between peoples was adopted in the Committee by 58 votes to none, with 1 abstention.

168. The PRESIDENT: Does any representative wish to speak on the draft resolution contained in document A/4666, relating to the draft Declaration on Freedom of Information?

169. This draft resolution was adopted unanimously by the Third Committee. If there is no objection I would propose to record it as being approved also by the General Assembly.

*The draft resolution was adopted.*

170. The PRESIDENT: Does any representative wish to speak on the draft resolution contained in document A/4667, relating to the draft Declaration on the Right of Asylum?

171. This draft resolution was also adopted unanimously by the Third Committee. If there is no objection I would propose to record it as being approved also by the General Assembly.

*The draft resolution was adopted.*

172. The PRESIDENT: Does any representative wish to explain his vote on the draft resolution recommended by the Third Committee in document A/4668, concerning measures designed to promote among youth the ideas of peace, mutual respect and understanding between peoples?

173. Since no one wishes to speak, I put this draft resolution to the vote.

*The draft resolution was adopted by 85 votes to none.*

*The meeting rose at 5.45 p.m.*